2022

CUMULATIVE SUPPLEMENT

TO

MISSISSIPPI CODE

1972 ANNOTATED

Issued September 2022

CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI
ENACTED THROUGH THE 2022 REGULAR SESSION
OF THE LEGISLATURE

PUBLISHED BY AUTHORITY OF
THE LEGISLATURE

SUPPLEMENTING

Volume 8

Title 27 (Chapters 1 to 17)

(As Revised 2017)

For latest statutes or assistance call 1-800-833-9844

By the Editorial Staff of the Publisher

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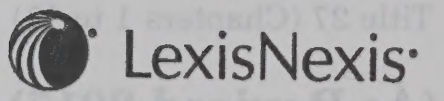

Matthew Bender & Company, Inc.

9443 Springboro Pike, Miamisburg, OH 45342

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User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.

PUBLISHER'S FOREWORD

Statutes

The 2022 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2022 Regular Legislative Session.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 4th Series
Federal Supplement, 3rd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal 2nd
Mississippi College Law Review
Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2022 Regular Session.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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September 2022 LexisNexis

SCHEDULE OF NEW SECTIONS

Added in this Supplement

TITLE 27. TAXATION AND FINANCE

CHAPTER 3. DEPARTMENT OF REVENUE

SEC.

27-3-87. Employment of qualified accountant by incentive program applicant or participant to perform third-party audit verification or review of information submitted by applicant or participant in lieu of audit, verification or review by department.

CHAPTER 7. INCOME TAX AND WITHHOLDING

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TAXATION AND FINANCE

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CHAPTER 3.

DEPARTMENT OF REVENUE

Sec.

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27-3-52. Counties to have certified appraisal personnel; continuing education; increases in compensation.

27-3-73. Secrecy of tax returns; release of certain information about individuals who are delinquent in payment of child support or under investigation for fraud or abuse of state or federal program.

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27-3-87. Employment of qualified accountant by incentive program applicant or participant to perform third-party audit verification or review of information submitted by applicant or participant in lieu of audit, verification or review by department.

§ 27-3-51. Annual visits to each county of the state; information concerning realty transfers; requests for and verification of realty sales data; salary increases for Department of Revenue appraisers receiving certain certifications.

(1) In order that the Commissioner of Revenue may be familiar with the

character and values of the several classes of property within each of the several counties of the state and of the economic conditions therein, and throughout the state, the Commissioner of Revenue, or his designees, shall annually visit each of the several counties of the state. In the course of his visitation within each county, the Commissioner of Revenue, or his designees, shall perform the duties enumerated in Sections 27-3-39 and 27-3-53, and he shall investigate the work and methods adopted by the board of supervisors and county tax assessors and confer with such officers and other well-informed persons, ascertain wherein existing laws are defective or improperly or negligently administered and shall be authorized to exercise the authority granted under Sections 27-1-21 and 27-1-23. However, any language in Section 27-1-21 and Section 27-1-23 relative to the actual assessing or appraising of property by the county or municipal tax assessor is not granted to the Commissioner of Revenue. He shall report the results of his investigation and the facts ascertained to the Governor, from time to time, when required by him, and to each session of the Legislature.

(2) The chancery clerk shall require that the current mailing address and current business or employment telephone number, if any, and current residential telephone number, if any, of each grantor and grantee be included on all deeds as a prerequisite for the deed to be filed for record after July 1, 1987. If the residential telephone number is unlisted, the grantor or grantee shall include on the deed a telephone number where he or she can be reached during business hours. If the grantee may receive mail at the address of the property transferred, then the address of the transferred property shall be the mailing address of the grantee for the purposes of this section. The information provided by the grantor and grantee shall be true and correct and complete to the best of his or her knowledge and belief under penalty of perjury under Section 97-9-61. The chancery clerk may refuse to accept delivery of any deed for filing that does not contain on the deed the information required in this section. The fact that the information provided by the grantor or grantee may be incorrect, incomplete or false, however, shall not invalidate the deed or the filing thereof for record. The Commissioner of Revenue shall annually audit the deeds filed with the chancery clerk of each county and assess a penalty of One Hundred Dollars ($100.00) against the county for each deed filed in violation of this section, and the aggregate of such sum shall be withheld by the Commissioner of Revenue from the next installment of homestead exemption reimbursement due under Section 27-33-41.

(3) The Commissioner of Revenue or his designees are hereby authorized to verify sales data regarding the transfer of real property by obtaining such information from the grantor or grantee. The information provided by the grantor or grantee to the Commissioner of Revenue or his designee shall be true, correct and complete to the best of his or her knowledge and belief under penalty of perjury under Section 97-9-61. Any information obtained in this manner shall be shared with the county tax assessors and used only for the purpose of valuing property.

(4) The Commissioner of Revenue may request sales data of Class I and Class II property from the county tax assessors in order to develop sales ratios.

If a county tax assessor fails to supply accurate information requested by the Commissioner of Revenue, the commissioner shall reject the county's tax roll. The avails of the one (1) mill levy as provided for in Section 27-39-329(2)(b) shall not be expended until the county complies with such request.

(5) When an appraiser employed by the Department of Revenue attends and successfully completes any part of the Mississippi Education and Certification Program and receives a certification, the Commissioner of Revenue is authorized to increase the salary of the appraiser in the amount authorized in Section 27-3-52 for completion of the same certification level by a county tax assessor and/or his deputies or assistants.

HISTORY: Codes, Hemingway's 1917, § 7768; 1930, § 7009; 1942, §§ 9198, 9209; Laws, 1916, ch. 98; Laws, 1932, ch. 119; Laws, 1938, ch. 150; Laws, 1980, ch. 505, § 11, ch. 561, § 12; Laws, 1987, ch. 507, § 1; Laws, 1987, ch. 517; Laws, 2009, ch. 492, § 27, eff from and after July 1, 2010; Laws, 2021, ch. 343, § 1, eff from and after July 1, 2021; Laws, 2021, ch. 435, § 1, eff from and after July 1, 2021.

Joint Legislative Committee Note — Section 1 of Chapter 343, Laws of 2021, effective from and after July 1, 2021 (approved March 17, 2021), amended this section. Section 1 of Chapter 435, Laws of 2021, effective from and after July 1, 2021 (approved April 9, 2021), also amended this section. As set out above, this section reflects the language of Section 1 of Chapter 435, Laws of 2021, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

Amendment Notes — The first 2021 amendment (ch. 343) added (5).

The second 2021 amendment (ch. 435) added (5).

§ 27-3-52. Counties to have certified appraisal personnel; continuing education; increases in compensation.

(1) The Department of Revenue shall promulgate rules and regulations setting forth the minimum requirements for which tax assessors and/or their deputy assessors or assistants, appropriate state employees, employees of planning and development districts or other persons may attain certification as an appraiser. The Department of Revenue shall establish and conduct such educational and training programs as may be appropriate to assist such persons in attaining such certification.

(2) Counties having not more than five thousand (5,000) applicants for homestead exemption shall have at least one (1) certified appraiser, and counties having more than five thousand (5,000) applicants for homestead exemption shall have at least two (2) certified appraisers; however, any county may employ any certified appraiser on a part-time basis.

(3) When any tax assessor and/or his deputies or assistants travel outside of their county to attend an appraisal school, seminar or workshop approved by the Department of Revenue, such persons shall receive as reimbursement of expenses of such travel the same mileage and actual and necessary expenses for food, lodging and travel by public carrier or private motor vehicles as is

allowed under Section 25-3-41. However, mileage shall not be authorized when such travel is done by a motor vehicle owned by the county.

(4) The county board of supervisors shall reimburse the assessors, tax collectors and deputies for reasonable and necessary expenses sustained in attending annual conferences, regional conferences, schools and seminars. The Department of Revenue shall have the authority to prescribe forms and to promulgate rules and regulations necessary to implement the provisions of this section. No expenses authorized herein shall be reimbursed unless the expenses have been authorized or approved by an order of the board duly made and spread upon the minutes of such board.

(5) When any tax assessor and/or his deputies or assistants attend and successfully complete all qualifications pursuant to the Mississippi Education and Certification Program and receive the certification level of Track II, Evaluator I, they shall receive an additional Two Thousand Dollars ($2,000.00) annually beginning the next fiscal year after completion.

(6) When any tax assessor and/or his deputies or assistants attend and successfully complete all qualifications pursuant to the Mississippi Education and Certification Program and receive the certification level of Track II, Evaluator II, they shall receive an additional Two Thousand Dollars ($2,000.00) annually beginning the next fiscal year after completion.

(7) When any tax assessor and/or his deputies or assistants attend and successfully complete all qualifications pursuant to the Mississippi Education and Certification Program and receive the certification level of Mississippi Assessment Evaluator (MAE), they shall receive an additional Two Thousand Five Hundred Dollars ($2,500.00) annually beginning the next fiscal year after completion.

(8) When any deputy tax assessor successfully completes all qualifications to become a licensed certified residential real estate appraiser under Sections 73-34-1 through 73-34-63, or completes all qualifications to earn the International Association of Assessing Officers' professional designation of Residential Evaluation Specialist (RES), on the recommendation of the tax assessor, the county board of supervisors may pay, in its discretion, an additional amount not to exceed Three Thousand Dollars ($3,000.00) annually to the deputy beginning the next fiscal year after the completion of such qualifications.

(9) When any deputy tax assessor successfully completes all qualifications to become a licensed certified general real estate appraiser under Sections 73-34-1 through 73-34-63, or completes all qualifications to earn the International Association of Assessing Officers professional designation of Certified Assessment Evaluator (CAE) on the recommendation of the tax assessor, the county board of supervisors may pay, in its discretion, an additional amount not to exceed Five Thousand Dollars ($5,000.00) annually to the deputy beginning the next fiscal year after the completion of such qualifications.

(10) The accumulative total of all educational increases authorized under subsections (5), (6), (7), (8) and (9) of this section shall not exceed Eleven Thousand Five Hundred Dollars ($11,500.00) and shall be paid out of the common county fund from proceeds of the one (1) mill ad valorem tax as provided in Section 27-39-329.

(11) In order to receive the additional annual payment or payments provided for in subsections (5), (6), (7), (8) and (9) of this section, the tax assessor or deputies or assistants who completed the Mississippi Education and Certification Program and were certified as provided herein shall be personally involved in the conduct, administration and/or supervision of the appraisal of the property of the county and in the maintenance of such appraisal.

HISTORY: Laws, 1980, ch. 505, § 12; Laws, 1984, ch. 470; Laws, 1987, ch. 507, § 2; Laws, 1989, ch. 517, § 6; Laws, 1990, ch. 447, § 1; Laws, 1997, ch. 414, § 1; Laws, 2003, ch. 468, § 4; Laws, 2009, ch. 492, § 28, eff from and after July 1, 2010; Laws, 2019, ch. 337, § 1, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment substituted "Two Thousand Dollars ($2,000.00)" for "One Thousand Dollars ($1,000.00)" in (5) and (6); substituted "Two Thousand Five Hundred Dollars ($2,500.00)" for "One Thousand Five Hundred Dollars ($1,500.00)" in (7); inserted "or completes all qualifications...Residential Evaluation Specialist (RES)" in (8); inserted "or completes all qualifications...Certified Assessment Evaluator (CAE)" in (9); and substituted "Eleven Thousand Five Hundred Dollars ($11,500.00)" for "Eight Thousand Five Hundred Dollars ($8,500.00)" in (10).

§ 27-3-73. Secrecy of tax returns; release of certain information about individuals who are delinquent in payment of child support or under investigation for fraud or abuse of state or federal program.

(1) Except in accordance with proper judicial order or as otherwise provided in this section or as authorized in Section 27-4-3, it shall be unlawful for the Commissioner of Revenue, or any deputy, agent, clerk or other officer or employee of the Department of Revenue, to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required on any taxes collected by reports received by the Department of Revenue. This provision relates to all taxes collected by the Department of Revenue and not referred to in Sections 27-7-83, 27-13-57 and 27-65-81, requiring confidentiality of income tax, franchise tax and sales tax returns. All system edits, thresholds, and any other automated system calculations used by the Department of Revenue in the processing of returns or statistics or used to determine the correct tax due for all taxes administered by the department shall be considered confidential information and may not be divulged or made known. Nothing in this section shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the Attorney General, or any other attorney representing the state, of the report or return of any taxpayer who shall bring action to set aside the tax thereon, or against whom an action or proceeding has been instituted to recover any tax or penalty imposed. Additionally, nothing in this section shall prohibit the Commissioner of Revenue from making available information necessary to recover taxes owing the state pursuant to the authority granted in Section 27-75-16.

The term "proper judicial order" as used in this section shall not include subpoenas or subpoenas duces tecum but shall include only those orders entered by a court of record in this state after furnishing notice and a hearing to the taxpayer and the Department of Revenue. The court shall not authorize the furnishing of such information unless it is satisfied that the information is needed to pursue pending litigation wherein the return itself is in issue, or the judge is satisfied that the need for furnishing the information outweighs the rights of the taxpayer to have such information secreted.

However, information relating to possible tax liability to other states or the federal government may be furnished to the revenue departments of those states or the federal government when the states or federal government grant a like comity to Mississippi.

(2) The State Auditor and the employees of his office shall have the right to examine only such tax returns as are necessary for auditing the Department of Revenue, and the same prohibitions against disclosure which apply to the Department of Revenue shall apply to the State Auditor and his office.

(3) Officers and employees of the Mississippi Development Authority who execute a confidentiality agreement with the Department of Revenue shall be authorized to discuss and examine information to which this section applies at the offices of the Mississippi Department of Revenue. This disclosure is limited to information necessary to properly administer the programs under the jurisdiction of the Mississippi Development Authority. The Department of Revenue is authorized to disclose to officers and employees of the Mississippi Development Authority who execute a confidentiality agreement the information necessary under the circumstances. The same prohibitions against disclosure which apply to the Department of Revenue shall apply to the officers or employees of the Mississippi Development Authority.

(4) Information required by the University Research Center to prepare the analyses required by Sections 57-13-101 through 57-13-109 shall be furnished to the University Research Center upon request. It shall be unlawful for any officer or employee of the University Research Center to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any information received by the center from the Department of Revenue other than as may be required by Sections 57-13-101 through 57-13-109 in an analysis prepared pursuant to Sections 57-13-101 through 57-13-109.

(5) Information required by the Mississippi Development Authority to prepare the reports required by Section 57-1-12.2 shall be furnished to the Mississippi Development Authority upon request. It shall be unlawful for any officer or employee of the Mississippi Development Authority to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any information received by the Mississippi Development Authority from the Department of Revenue other than as may be required by Section 57-1-12.2 in a report prepared pursuant to Section 57-1-12.2.

(6) Information necessary to comply with Chapter 13, Title 85, may be furnished to financial institutions. It shall be unlawful for any officer or

employee of the financial institution to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any information received by the financial institution from the Department of Revenue other than as may be authorized by Chapter 13, Title 85.

(7) The Commissioner of Revenue and the Department of Revenue are authorized to discuss with and provide the Attorney General or his designated representative with information related to an offer to compromise and settle any doubtful claim regarding a finally determined tax liability as authorized by Section 31-19-30. It shall be unlawful for the Attorney General or any officer or employee of the Attorney General to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any information received by the Attorney General's office from the Commissioner of Revenue or Department of Revenue other than as may be required by Section 31-19-30.

(8) Any person who violates the provisions of this section shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not more than One Thousand Dollars ($1,000.00) or imprisoned not more than six (6) months in the county jail, or both.

(9) The Commissioner of Revenue and the Department of Revenue are authorized to disclose to the Child Support Unit and to the Fraud Investigation Unit of the Department of Human Services without the need for a subpoena or proper judicial order the name, address, social security number, amount of income, amount of sales tax, source of income, assets and other relevant information, records and tax forms for individuals who are delinquent in the payment of any child support as defined in Section 93-11-101 or who are under investigation for fraud or abuse of any state or federal program or statute as provided in Section 43-1-23.

HISTORY: Laws, 1975, ch. 516, § 1; Laws, 1986, ch. 389; Laws, 1988, ch. 349, § 2; Laws, 2009, ch. 492, § 36; Laws, 2010, ch. 323, § 1; Laws, 2010, ch. 385, § 1; Laws, 2010, ch. 388, § 2; Laws, 2010, ch. 481, § 1; Laws, 2014, ch. 517, § 8; Laws, 2017, ch. 407, § 5, eff from and after July 1, 2017; Laws, 2021, ch. 461, § 4, eff from and after July 1, 2021.

Amendment Notes — The 2021 amendment added (7); and redesignated former (7) and (8) as (8) and (9).

§ 27-3-79. Penalties for tax evasion; statute of limitations for tax evasion.

JUDICIAL DECISIONS

1. In general.

Defendant's indictment charged separate and distinct crimes and did not offend the prohibitions against double jeopardy in doing so because accessing a computer was not a necessary element of tax evasion, and the evasion of taxes was not a necessary element of computer fraud. Jones v. State, 284 So. 3d 855, 2019 Miss. App. LEXIS 550 (Miss. Ct. App. 2019).

§ 27-3-85. Mississippi COVID-19 Relief Payment Fund created; definitions; source and use of monies; establishment of program to provide payment to eligible taxpayers.

(1) As used in this section, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "COVID-19" means the Coronavirus Disease 2019.

(b) "Department" means the Mississippi Department of Revenue.

(c) "Eligible taxpayer" means a resident taxpayer, or a taxpayer with a permanent place of business located in the state, that:

(i) Was registered with the department before March 1, 2020, had an Employer Identification Number or Social Security Number before March 1, 2020, and/or had an active department withholding account established before March 1, 2020, which withholding account was not for the purposes of paying household employees or as a home healthcare recipient;

(ii) Had a North American Industry Classification System Code of 311811, 4421, 4422, 4481, 4482, 4483, 4511, 4512, 4531, 4532, 4533, 4539, 487210, 488990, 5121, 5322, 541920, 541921, 561499, 561510, 561920, 6116, 6244, 7111, 7112, 7113, 711410, 7131, 7139, 7223, 7224, 7225 or 8121, before March 1, 2020, and was engaged as an active business in such activity before March 1, 2020;

(iii) Was subject to any COVID-19 related state, municipal and/or county required business closure or voluntary closure;

(iv) Filed Mississippi taxes for tax year 2018 or 2019, or, for an eligible business formed on or after January 1, 2020, intends to file Mississippi taxes for tax year 2020, unless exempt under Section 27-7-29, Section 27-13-63 or other applicable provision of law;

(v) Had no more than fifty (50) full-time equivalent employees as of March 1, 2020; and

(vi) Is not a subsidiary of a business with more than fifty (50) full-time equivalent employees, is not part of a larger business enterprise with more than fifty (50) full-time equivalent employees and is not owned by a business with more than fifty (50) full-time equivalent employees.

(2)(a) There is hereby created in the State Treasury a special fund to be designated as the "Mississippi COVID-19 Relief Payment Fund," which shall consist of funds made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used for the purpose of providing payments to eligible taxpayers as provided in this section. Monies in the fund shall be administered and disbursed by the Department of Finance and Administration in compliance with the guidelines, guidance, rules, regulations and/or other criteria, as may be amended from time to time, of the United States

Department of the Treasury regarding the use of monies from the Coronavirus Relief Fund established by the Coronavirus Aid, Relief, and Economic Security Act.

(b) The department shall establish a program to provide a payment of Two Thousand Dollars ($2,000.00) to each eligible taxpayer. The department may coordinate with various professional licensing boards and other regulatory entities and agencies for the purpose of identifying eligible taxpayers as defined herein and compile a report of eligible taxpayers. The department shall certify the report to the Department of Finance and Administration, which shall disburse the payments authorized under this section to eligible taxpayers.

(c) To effectuate the purposes of this section, any office, division, board, bureau, committee, institution or agency of the state, or any political subdivision thereof, shall, at the request of the department, provide the employees, facilities, assistance, information and data needed to enable the department to carry out its duties.

HISTORY: Laws, 2020, ch. 303, § 4, eff from and after passage (approved May 20, 2020); Laws, 2020, ch. 494, § 1, eff from and after passage (became law without the Governor's signature on August 18, 2020); Laws, 2020, ch. 502, § 1, eff from and after passage (became law without the Governor's signature on October 9, 2020).

Joint Legislative Committee Note — Section 4 of Chapter 303, Laws of 2020, effective from and after passage (approved May 20, 2020), added this section. Section 1 of Chapter 494, Laws of 2020, effective from and after passage (became law without the Governor's signature on August 18, 2020), amended this section. Section 1 of Chapter 502, Laws of 2020, effective from and after passage (became law without the Governor's signature on October 9, 2020), also amended this section. As set out above, this section reflects the language of Section 1 of Chapter 502, Laws of 2020, which contains language that specifically provides that it supersedes § 27-3-85 as added by Chapter 303 and amended by Chapter 494, Laws of 2020.

Editor's Notes — Laws of 2020, ch. 303, § 2, effective May 20, 2020, as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provides:

"SECTION 2. During fiscal years 2020 and 2021, the Department of Finance and Administration shall have the authority to receive, budget and escalate federal funds in the DFA CARES ACT COVID-19 Fund (Fund Number 6820113000) in an amount not to exceed Fifty Million Dollars ($50,000,000. 00) for defraying expenses incurred by any state agency, department or institution for the purposes provided under the Coronavirus Relief Fund, Section 5001 of the federal Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-136)."

Laws of 2020, ch. 303, § 3, as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provides:

"SECTION 3. The Legislature intends to provide economic support to eligible Mississippi businesses for costs incurred in connection with the Coronavirus Disease 2019 (COVID-19), including business interruption caused by forced closures or restricted operations resulting from voluntary closures instituted to promote social distancing measures, decreased customer demand, cleaning or disinfection, and provision of personal protective equipment. Eligible expenses shall not include any damage paid by business interruption insurance or disallowed by Section 5001 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act or any guidance or regulation issued by the United States Department of the Treasury in conformity therewith.

"In order to expedite payment to businesses in need of economic support due to required or voluntary closures related to COVID-19, while minimizing administrative costs and delays, the Legislature finds that a direct payment of Two Thousand Dollars ($2,000.00) per business is a necessary cost, as provided for in Section 4 of this act. This payment is specifically to compensate these businesses for an initial compliance with the Governor's State of Emergency COVID-19 Proclamation issued on March 14, 2020. As such, this payment is not related to and is separate and distinct from any eligible expense that is reimbursable from the Back to Business Program. The Legislature finds further that an application process is warranted for the provision of additional compensation, whereby eligible businesses not wishing to itemize their expenses may receive, subject to approval, a base payment of Three Thousand Five Hundred Dollars ($3,500.00) plus Five Hundred Dollars ($500.00) per full-time equivalent employee as a reasonable estimate of their costs incurred, as provided for in Sections 5 through 10 of this act."

Laws of 2020, ch. 303, § 12, as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provides:

"SECTION 12. If any section, paragraph, sentence, clause, phrase or any part of this act is declared to be in conflict with federal law, or if for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses, phrases or parts thereof shall be in no manner affected thereby but shall remain in full force and effect."

Laws of 2020, ch. 494, § 2, effective August 18, 2020, provides:

"SECTION 2. All changes made in this act to Senate Bill No. 2772, 2020 Regular Session [Chapter 303, Laws of 2020], shall be retroactive to May 20, 2020."

Amendment Notes — The first 2020 amendment (ch. 494), effective August 18, 2020, in (1)(c)(ii), inserted "311811," "487210," "7113," and "7223, 7224."

The second 2020 amendment (ch. 502), effective October 9, 2020, in (1)(c)(ii), inserted "488990," "5322, 541920, 541921, 561499, 561510, 561920," and "711410"; and in (2)(a), deleted the former last sentence, which read: "If on November 1, 2020, there are unobligated monies in the fund, the Governor shall have the discretion to transfer monies to another state agency to be used for eligible expenditures pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act."

Federal Aspects — Coronavirus Aid, Relief, and Economic Security Act (CARES Act), see 116 P.L. 136, 134 Stat. 281.

§ 27-3-87. Employment of qualified accountant by incentive program applicant or participant to perform third-party audit verification or review of information submitted by applicant or participant in lieu of audit, verification or review by department.

(1) For any incentive program for which the Department of Revenue audits, verifies or otherwise reviews information submitted by an applicant, program participant or other entity for the purposes of the incentive program and eligibility for any incentive under the program, the applicant, program participant or other entity may employ a qualified accountant to perform a third-party audit, verification or other review of such information, in lieu of the Department of Revenue doing so, for the purposes of the incentive program and eligibility for any incentive under the program. The applicant, program participant or other entity shall be responsible for all costs associated with such purposes, and the qualified accountant shall provide the third-party

audit, verification or other review of information to the Department of Revenue. The Department of Revenue shall accept and approve the third-party audit, verification or other review of information for the purposes of the incentive program and eligibility for any incentive under the program and shall notify the applicant, program participant or other entity of such acceptance and approval within thirty (30) days after receipt of the third-party audit, verification or other review of information. If the Department of Revenue does not notify the applicant, program participant or other entity of such acceptance and approval within thirty (30) days after receipt of the third-party audit, verification or other review of information, then the third-party audit, verification or other review of information shall be automatically approved and valid for the purposes of the incentive program and eligibility for any incentive under the program. The State of Mississippi shall not be liable for or otherwise responsible for any actions of a qualified accountant.

(2) For the purposes of this section, the term "qualified accountant" means a certified public accountant (CPA) who: (a) maintains an active unrestricted original certified public accountant license, (b) maintains a current Mississippi certified public accountant firm permit, (c) actively participates in a peer review program approved by the State Board of Certified Public Accountants of Mississippi, (d) completes twenty (20) active hours of continuing professional education in approved courses for each reporting cycle, and (e) is capable of conducting two (2) levels of review within the CPA firm or, if not within the firm, then through a cooperative endeavor with another CPA for the review of a verification report prior to its issuance.

HISTORY: Laws, 2021, ch. 480, § 30, eff from and after passage (approved April 22, 2021).

CHAPTER 4.

BOARD OF TAX APPEALS

Sec.
27-4-3. Powers, duties and jurisdiction of the Board of Tax Appeals.

§ 27-4-3. Powers, duties and jurisdiction of the Board of Tax Appeals.

(1) The Board of Tax Appeals shall have the following powers and duties:

(a) To adopt, amend or repeal those rules or regulations necessary to implement the duties assigned to the board.

(b) To have jurisdiction over all administrative appeals to the board from decisions of the review board and administrative hearing officers of the Department of Revenue under Sections 27-77-5, 27-77-9, 27-77-11 and 27-77-12, to arrange the time and place of the hearing on any such appeal, and where required, to arrange for any evidence presented to the board at such hearing to be transcribed or otherwise preserved for purposes of making a record of the hearing.

(c) To have jurisdiction over all administrative appeals regarding certain decisions and actions by the Department of Revenue under the Local Option Alcoholic Beverage Control Law, Section 67-1-1 et seq., under the Mississippi Native Wine Law of 1976, Section 67-5-1 et seq., and under the Mississippi Native Spirit Law, Section 67-11-1 et seq., as provided for under Section 67-1-72, to arrange the time and place of the hearing on any such appeal and to arrange for any evidence presented to the board at such hearing to be transcribed or otherwise preserved for purposes of making a record of the hearing.

(d) To have jurisdiction over all administrative appeals under Sections 27-33-37 and 27-33-41 to the board from decisions of the Department of Revenue to deny an objection of a board of supervisors to the rejection by the Department of Revenue of an application for homestead exemption and to arrange the time and place of the hearing on any such appeal.

(e) To have jurisdiction over all administrative appeals under Section 27-35-113 to the board from the decision of the Department of Revenue regarding its examination of the recapitulations of the assessment rolls of a county and to arrange the time and place of the hearing on any such appeal.

(f) To have jurisdiction to hear any objection to an assessment by the Department of Revenue pursuant to Section 27-35-311, 27-35-517 or 27-35-703 and to arrange the time and place of the hearing on any such objection.

(g) To perform all other duties which are now or may hereafter be imposed upon the board by law.

(h) To obtain, review, receive into evidence and/or otherwise examine and consider applications, returns, reports and any particulars set forth or disclosed in any application report or return required on any taxes collected by reports received by the Department of Revenue and any other documents and information received, generated and/or maintained by the Department of Revenue. The authority of the board under this paragraph is not barred or otherwise restricted by the confidentiality of such documents and information under Sections 27-3-73, 27-7-83, 27-13-57 and/or 27-65-81, and the disclosure of such documents and information to the board shall be an exception to the prohibition on disclosure of such documents and information contained in Sections 27-3-73, 27-7-83, 27-13-57 and/or 27-65-81.

(2) Each member of the board is empowered to administer and certify oaths.

(3) Each member of the board is empowered to perform all other duties which are now or may hereafter be imposed on him by law.

HISTORY: Laws, 2009, ch. 492, § 2; Laws, 2010, ch. 388, § 1, eff from and after July 1, 2010; Laws, 2021, ch. 388, § 15, eff from and after July 1, 2021.

Amendment Notes — The 2021 amendment, in (1)(c), inserted "and under the Mississippi Native Spirit Law, Section 67-11-1 et seq.," and made a related change.

CHAPTER 7.

INCOME TAX AND WITHHOLDING

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ARTICLE 1.

INCOME TAX.

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27-7-15.	Gross income defined.
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27-7-22.39.	Income tax credit for voluntary cash contributions to qualifying charitable organizations; separate income tax credit for voluntary cash contributions to qualifying foster care charitable organizations [Repealed effective January 1, 2025].
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27-7-24.9. Allocation and apportionment of income of major medical laboratory service business with taxable activities within and without state.
27-7-25. Partnerships.
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§ 27-7-5. Imposition of the tax.

(1)(a) Except as otherwise provided in this section, there is hereby assessed and levied, to be collected and paid as hereinafter provided, for the calendar year 1983 and fiscal years ending during the calendar year 1983 and all taxable years thereafter, upon the entire net income of every resident individual, corporation, association, trust or estate, in excess of the credits provided, a tax at the following rates:

(i)1. Through calendar year 2017, on the first Five Thousand Dollars ($5,000.00) of taxable income, or any part thereof, the rate shall be three percent (3%);

2. For calendar year 2018, on the first One Thousand Dollars ($1,000.00) of taxable income there shall be no tax levied, and on the next Four Thousand Dollars ($4,000.00) of taxable income, or any part thereof, the rate shall be three percent (3%);

3. For calendar year 2019, on the first Two Thousand Dollars ($2,000.00) of taxable income there shall be no tax levied, and on the next Three Thousand Dollars ($3,000.00) of taxable income, or any part thereof, the rate shall be three percent (3%);

4. For calendar year 2020, on the first Three Thousand Dollars ($3,000.00) of taxable income there shall be no tax levied, and on the next Two Thousand Dollars ($2,000.00) of taxable income, or any part thereof, the rate shall be three percent (3%);

5. For calendar year 2021, on the first Four Thousand Dollars ($4,000.00) of taxable income there shall be no tax levied, and on the next One Thousand Dollars ($1,000.00) of taxable income, or any part thereof, the rate shall be three percent (3%);

6. For calendar year 2022 and all taxable years thereafter, there shall be no tax levied on the first Five Thousand Dollars ($5,000.00) of taxable income;

(ii) On taxable income in excess of Five Thousand Dollars ($5,000.00) up to and including Ten Thousand Dollars ($10,000.00), or any part thereof, the rate shall be four percent (4%); and

(iii) On all taxable income in excess of Ten Thousand Dollars ($10,000.00), the rate shall be five percent (5%).

(b)(i) For calendar year 2023 and all calendar years thereafter, there shall be no tax levied under subparagraph (ii) of paragraph (a) of this subsection on the taxable income of individuals in excess of Five Thousand Dollars ($5,000.00) up to and including Ten Thousand Dollars ($10,000.00), or any part thereof; and

(ii) For calendar year 2024 and all calendar years thereafter, the tax imposed under subparagraph (iii) of paragraph (a) of this subsection upon all taxable income of individuals in excess of Ten Thousand Dollars ($10,000.00), shall be at the following rates:

1. For calendar year 2024, on such taxable income, the rate shall be four and seven-tenths percent (4.7%);

2. For calendar year 2025, on such taxable income, the rate shall be four and four-tenths percent (4.4%); and

3. For calendar year 2026 and all calendar years thereafter, on such taxable income, the rate shall be four percent (4%).

It is the intent of the Legislature that before calendar year 2026, the Legislature will consider whether the revised tax rates provided for in this subparagraph (ii) will be further decreased for calendar years after calendar year 2026. If the revised tax rates provided for in this subparagraph (ii) are further decreased for calendar years after calendar year 2026 to the extent that there is no tax levied on the taxable income of individuals under this subparagraph (ii), the individual income tax shall stand repealed.

(2) An S corporation, as defined in Section 27-8-3(1)(g), shall not be subject to the income tax imposed under this section.

(3) A like tax is hereby imposed to be assessed, collected and paid annually, except as hereinafter provided, at the rate specified in this section and as hereinafter provided, upon and with respect to the entire net income, from all property owned or sold, and from every business, trade or occupation carried on in this state by individuals, corporations, partnerships, trusts or estates, not residents of the State of Mississippi.

(4) In the case of taxpayers having a fiscal year beginning in a calendar year with a rate in effect that is different than the rate in effect for the next calendar year and ending in the next calendar year, the tax due for that taxable year shall be determined by:

(a) Computing for the full fiscal year the amount of tax that would be due under the rates in effect for the calendar year in which the fiscal year begins; and

(b) Computing for the full fiscal year the amount of tax that would be due under the rates in effect for the calendar year in which the fiscal year ends; and

(c) Applying to the tax computed under paragraph (a) the ratio which the number of months falling within the earlier calendar year bears to the total number of months in the fiscal year; and

(d) Applying to the tax computed under paragraph (b) the ratio which the number of months falling within the later calendar year bears to the total number of months within the fiscal year; and

(e) Adding to the tax determined under paragraph (c) the tax determined under paragraph (d) the sum of which shall be the amount of tax due for the fiscal year.

HISTORY: Codes, 1942, § 9220-03; Laws, 1934, ch. 120; Laws, 1938, ch. 115; Laws, 1940, ch. 111; Laws, 1942, ch. 124; Laws, 1944, ch. 125, § 1; Laws, 1952, ch. 402, § 3; Laws, 1960, ch. 456, § 1; Laws, 1960, ch. 457, § 1; Laws, 1968, ch. 580, § 26; Laws, 1982, Ex Sess, ch. 17, § 31; Laws, 1984, 1st Ex Sess, ch. 10, § 1; Laws, 1992, ch. 484, § 7; Laws, 1993, ch. 456, § 12; Laws, 2016, ch. 499, § 1, eff from and after Jan. 1, 2016; Laws, 2022, ch. 391, § 2, eff from and after July 1, 2022.

Editor's Notes — Laws of 2022, ch. 391, § 1, provides:

"SECTION 1. This act shall be known and may be cited as the 'Mississippi Tax Freedom Act of 2022.'"

Amendment Notes — The 2022 amendment, in (1), redesignated the former introductory paragraph as (1)(a), and therein added the exception, redesignated former (a)(i) through (vi) as (i)1. through 6., redesignated former (b) and (c) as (ii) and (iii), respectively, and added (b).

Cross References — Tax credits against taxes imposed by this chapter, see §§ 27-7-22.3 through 27-7-22.40.

Allowable deduction from income taxes imposed under this section for certain expenses related to carrying on a trade as a medical cannabis establishment, see § 41-137-51.

§ 27-7-15. Gross income defined.

(1) For the purposes of this article, except as otherwise provided, the term "gross income" means and includes the income of a taxpayer derived from salaries, wages, fees or compensation for service, of whatever kind and in whatever form paid, including income from governmental agencies and subdivisions thereof; or from professions, vocations, trades, businesses, commerce or sales, or renting or dealing in property, or reacquired property; also from annuities, interest, rents, dividends, securities, insurance premiums, reinsurance premiums, considerations for supplemental insurance contracts, or the transaction of any business carried on for gain or profit, or gains, or profits, and income derived from any source whatever and in whatever form paid. The amount of all such items of income shall be included in the gross income for the taxable year in which received by the taxpayer. The amount by which an eligible employee's salary is reduced pursuant to a salary reduction agreement authorized under Section 25-17-5 shall be excluded from the term "gross income" within the meaning of this article.

(2) In determining gross income for the purpose of this section, the following, under regulations prescribed by the commissioner, shall be applicable:

(a) **Dealers in property.** Federal rules, regulations and revenue procedures shall be followed with respect to installment sales unless a transaction results in the shifting of income from inside the state to outside the state.

(b) **Casual sales of property.**

(i) Prior to January 1, 2001, federal rules, regulations and revenue procedures shall be followed with respect to installment sales except they

shall be applied and administered as if H.R. 3594, the Installment Tax Correction Act of 2000 of the 106th Congress, had not been enacted. This provision will generally affect taxpayers, reporting on the accrual method of accounting, entering into installment note agreements on or after December 17, 1999. Any gain or profit resulting from the casual sale of property will be recognized in the year of sale.

(ii) From and after January 1, 2001, federal rules, regulations and revenue procedures shall be followed with respect to installment sales except as provided in this subparagraph (ii). Gain or profit from the casual sale of property shall be recognized in the year of sale. When a taxpayer recognizes gain on the casual sale of property in which the gain is deferred for federal income tax purposes, a taxpayer may elect to defer the payment of tax resulting from the gain as allowed and to the extent provided under regulations prescribed by the commissioner. If the payment of the tax is made on a deferred basis, the tax shall be computed based on the applicable rate for the income reported in the year the payment is made. Except as otherwise provided in subparagraph (iii) of this paragraph (b), deferring the payment of the tax shall not affect the liability for the tax. If at any time the installment note is sold, contributed, transferred or disposed of in any manner and for any purpose by the original note holder, or the original note holder is merged, liquidated, dissolved or withdrawn from this state, then all deferred tax payments under this section shall immediately become due and payable.

(iii) If the selling price of the property is reduced by any alteration in the terms of an installment note, including default by the purchaser, the gain to be recognized is recomputed based on the adjusted selling price in the same manner as for federal income tax purposes. The tax on this amount, less the previously paid tax on the recognized gain, is payable over the period of the remaining installments. If the tax on the previously recognized gain has been paid in full to this state, the return on which the payment was made may be amended for this purpose only. The statute of limitations in Section 27-7-49 shall not bar an amended return for this purpose.

(c) **Reserves of insurance companies.** In the case of insurance companies, any amounts in excess of the legally required reserves shall be included as gross income.

(d) **Affiliated companies or persons.** As regards sales, exchanges or payments for services from one to another of affiliated companies or persons or under other circumstances where the relation between the buyer and seller is such that gross proceeds from the sale or the value of the exchange or the payment for services are not indicative of the true value of the subject matter of the sale, exchange or payment for services, the commissioner shall prescribe uniform and equitable rules for determining the true value of the gross income, gross sales, exchanges or payment for services, or require consolidated returns of affiliates.

(e) **Alimony and separate maintenance payments.** The federal rules,

regulations and revenue procedures in determining the deductibility and taxability of alimony payments shall be followed in this state.

(f) **Reimbursement for expenses of moving.** There shall be included in gross income (as compensation for services) any amount received or accrued, directly or indirectly, by an individual as a payment for or reimbursement of expenses of moving from one (1) residence to another residence which is attributable to employment or self-employment.

(3) In the case of taxpayers other than residents, gross income includes gross income from sources within this state.

(4) The words "gross income" do not include the following items of income which shall be exempt from taxation under this article:

(a) The proceeds of life insurance policies and contracts paid upon the death of the insured. However, the income from the proceeds of such policies or contracts shall be included in the gross income.

(b) The amount received by the insured as a return of premium or premiums paid by him under life insurance policies, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract.

(c) The value of property acquired by gift, bequest, devise or descent, but the income from such property shall be included in the gross income.

(d) Interest upon the obligations of the United States or its possessions, or securities issued under the provisions of the Federal Farm Loan Act of 1916, or bonds issued by the War Finance Corporation, or obligations of the State of Mississippi or political subdivisions thereof.

(e) The amounts received through accident or health insurance as compensation for personal injuries or sickness, plus the amount of any damages received for such injuries or such sickness or injuries, or through the War Risk Insurance Act, or any law for the benefit or relief of injured or disabled members of the military or naval forces of the United States.

(f) Income received by any religious denomination or by any institution or trust for moral or mental improvements, religious, Bible, tract, charitable, benevolent, fraternal, missionary, hospital, infirmary, educational, scientific, literary, library, patriotic, historical or cemetery purposes or for two (2) or more of such purposes, if such income be used exclusively for carrying out one or more of such purposes.

(g) Income received by a domestic corporation which is "taxable in another state" as this term is defined in this article, derived from business activity conducted outside this state. Domestic corporations taxable both within and without the state shall determine Mississippi income on the same basis as provided for foreign corporations under the provisions of this article.

(h) In case of insurance companies, there shall be excluded from gross income such portion of actual premiums received from an individual policyholder as is paid back or credited to or treated as an abatement of premiums of such policyholder within the taxable year.

(i) Income from dividends that has already borne a tax as dividend

income under the provisions of this article, when such dividends may be specifically identified in the possession of the recipient.

(j) Amounts paid by the United States to a person as added compensation for hazardous duty pay as a member of the Armed Forces of the United States in a combat zone designated by Executive Order of the President of the United States.

(k) Amounts received as retirement allowances, pensions, annuities or optional retirement allowances paid under the federal Social Security Act, the Railroad Retirement Act, the Federal Civil Service Retirement Act, or any other retirement system of the United States government, retirement allowances paid under the Mississippi Public Employees' Retirement System, Mississippi Highway Safety Patrol Retirement System or any other retirement system of the State of Mississippi or any political subdivision thereof. The exemption allowed under this paragraph (k) shall be available to the spouse or other beneficiary at the death of the primary retiree.

(*l*) Amounts received as retirement allowances, pensions, annuities or optional retirement allowances paid by any public or governmental retirement system not designated in paragraph (k) or any private retirement system or plan of which the recipient was a member at any time during the period of his employment. Amounts received as a distribution under a Roth Individual Retirement Account shall be treated in the same manner as provided under the Internal Revenue Code of 1986, as amended. The exemption allowed under this paragraph (l) shall be available to the spouse or other beneficiary at the death of the primary retiree.

(m) National Guard or Reserve Forces of the United States compensation not to exceed the aggregate sum of Five Thousand Dollars ($5,000.00) for any taxable year through the 2005 taxable year, and not to exceed the aggregate sum of Fifteen Thousand Dollars ($15,000.00) for any taxable year thereafter.

(n) Compensation received for active service as a member below the grade of commissioned officer and so much of the compensation as does not exceed the maximum enlisted amount received for active service as a commissioned officer in the Armed Forces of the United States for any month during any part of which such members of the Armed Forces (i) served in a combat zone as designated by Executive Order of the President of the United States or a qualified hazardous duty area as defined by federal law, or both; or (ii) was hospitalized as a result of wounds, disease or injury incurred while serving in such combat zone. For the purposes of this paragraph (n), the term "maximum enlisted amount" means and has the same definition as that term has in 26 USCS 112.

(o) The proceeds received from federal and state forestry incentive programs.

(p) The amount representing the difference between the increase of gross income derived from sales for export outside the United States as compared to the preceding tax year wherein gross income from export sales was highest, and the net increase in expenses attributable to such increased

exports. In the absence of direct accounting, the ratio of net profits to total sales may be applied to the increase in export sales. This paragraph (p) shall only apply to businesses located in this state engaging in the international export of Mississippi goods and services. Such goods or services shall have at least fifty percent (50%) of value added at a location in Mississippi.

(q) Amounts paid by the federal government for the construction of soil conservation systems as required by a conservation plan adopted pursuant to 16 USCS 3801 et seq.

(r) The amount deposited in a medical savings account, and any interest accrued thereon, that is a part of a medical savings account program as specified in the Medical Savings Account Act under Sections 71-9-1 through 71-9-9; provided, however, that any amount withdrawn from such account for purposes other than paying eligible medical expense or to procure health coverage shall be included in gross income.

(s) Amounts paid by the Mississippi Soil and Water Conservation Commission from the Mississippi Soil and Water Cost-Share Program for the installation of water quality best management practices.

(t) Dividends received by a holding corporation, as defined in Section 27-13-1, from a subsidiary corporation, as defined in Section 27-13-1.

(u) Interest, dividends, gains or income of any kind on any account in the Mississippi Affordable College Savings Trust Fund, as established in Sections 37-155-101 through 37-155-125, to the extent that such amounts remain on deposit in the MACS Trust Fund or are withdrawn pursuant to a qualified withdrawal, as defined in Section 37-155-105.

(v) Interest, dividends or gains accruing on the payments made pursuant to a prepaid tuition contract, as provided for in Section 37-155-17.

(w) Income resulting from transactions with a related member where the related member subject to tax under this chapter was required to, and did in fact, add back the expense of such transactions as required by Section 27-7-17(2). Under no circumstances may the exclusion from income exceed the deduction add-back of the related member, nor shall the exclusion apply to any income otherwise excluded under this chapter.

(x) Amounts that are subject to the tax levied pursuant to Section 27-7-901, and are paid to patrons by gaming establishments licensed under the Mississippi Gaming Control Act.

(y) Amounts that are subject to the tax levied pursuant to Section 27-7-903, and are paid to patrons by gaming establishments not licensed under the Mississippi Gaming Control Act.

(z) Interest, dividends, gains or income of any kind on any account in a qualified tuition program and amounts received as distributions under a qualified tuition program shall be treated in the same manner as provided under the United States Internal Revenue Code, as amended. For the purposes of this paragraph (z), the term "qualified tuition program" means and has the same definition as that term has in 26 USCS 529.

(aa) The amount deposited in a health savings account, and any interest accrued thereon, that is a part of a health savings account program

as specified in the Health Savings Accounts Act created in Sections 83-62-1 through 83-62-9; however, any amount withdrawn from such account for purposes other than paying qualified medical expenses or to procure health coverage shall be included in gross income, except as otherwise provided by Sections 83-62-7 and 83-62-9.

(bb) Amounts received as qualified disaster relief payments shall be treated in the same manner as provided under the United States Internal Revenue Code, as amended.

(cc) Amounts received as a "qualified Hurricane Katrina distribution" as defined in the United States Internal Revenue Code, as amended.

(dd) Amounts received by an individual which may be excluded from income as foreign earned income for federal income tax purposes.

(ee) Amounts received by a qualified individual, directly or indirectly, from an employer or nonprofit housing organization that are qualified housing expenses associated with an employer-assisted housing program. For purposes of this paragraph (ee):

(i) "Qualified individual" means any individual whose household income does not exceed one hundred twenty percent (120%) of the area median gross income (as defined by the United States Department of Housing and Urban Development), adjusted for household size, for the area in which the housing is located.

(ii) "Nonprofit housing organization" means an organization that is organized as a not-for-profit organization under the laws of this state or another state and has as one of its purposes:

1. Homeownership education or counseling;

2. The development of affordable housing; or

3. The development or administration of employer-assisted housing programs.

(iii) "Employer-assisted housing program" means a separate written plan of any employer (including, without limitation, tax-exempt organizations and public employers) for the exclusive benefit of the employer's employees to pay qualified housing expenses to assist the employer's employees in securing affordable housing.

(iv) "Qualified housing expenses" means:

1. With respect to rental assistance, an amount not to exceed Two Thousand Dollars ($2,000.00) paid for the purpose of assisting employees with security deposits and rental subsidies; and

2. With respect to homeownership assistance, an amount not to exceed the lesser of Ten Thousand Dollars ($10,000.00) or six percent (6%) of the purchase price of the employee's principal residence that is paid for the purpose of assisting employees with down payments, payment of closing costs, reduced interest mortgages, mortgage guarantee programs, mortgage forgiveness programs, equity contribution programs, or contributions to homebuyer education and/or homeownership counseling of eligible employees.

(ff) For the 2010 taxable year and any taxable year thereafter, amounts converted in accordance with the United States Internal Revenue Code, as

amended, from a traditional Individual Retirement Account to a Roth Individual Retirement Account. The exemption allowed under this paragraph (ff) shall be available to the spouse or other beneficiary at the death of the primary retiree.

(gg) Amounts received for the performance of disaster or emergency-related work as defined in Section 27-113-5.

(hh) The amount deposited in a catastrophe savings account established under Sections 27-7-1001 through 27-7-1007, interest income earned on the catastrophe savings account, and distributions from the catastrophe savings account; however, any amount withdrawn from a catastrophe savings account for purposes other than paying qualified catastrophe expenses shall be included in gross income, except as otherwise provided by Sections 27-7-1001 through 27-7-1007.

(ii) Interest, dividends, gains or income of any kind on any account in the Mississippi Achieving a Better Life Experience (ABLE) Trust Fund, as established in Chapter 28, Title 43, to the extent that such amounts remain on deposit in the ABLE Trust Fund or are withdrawn pursuant to a qualified withdrawal, as defined in Section 43-28-11.

(jj) Subject to the limitations provided under Section 27-7-1103, amounts deposited into a first-time homebuyer savings account and any interest or other income earned attributable to an account and monies or funds withdrawn or distributed from an account for the payment of eligible costs by or on behalf of a qualified beneficiary; however, any monies or funds withdrawn or distributed from a first-time homebuyer savings account for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary shall be included in gross income. For the purpose of this paragraph (jj), the terms "first-time homebuyer savings account," "eligible costs" and "qualified beneficiary" mean and have the same definitions as such terms have in Section 27-7-1101.

(kk) Amounts paid by an agricultural disaster program as compensation to an agricultural producer, cattle farmer or cattle rancher who has suffered a loss as the result of a disaster or emergency, including, but not limited to, the following United States Department of Agriculture programs:

(i) Livestock Forage Disaster Program;

(ii) Livestock Indemnity Program;

(iii) Emergency Assistance for Livestock, Honey Bees and Farm-raised Fish Program;

(iv) Emergency Conservation Program;

(v) Noninsured Crop Disaster Assistance Program;

(vi) Pasture, Rangeland, Forage Pilot Insurance Program;

(vii) Annual Forage Pilot Program;

(viii) Livestock Risk Protection Insurance Program; and

(ix) Livestock Gross Margin Insurance Plan.

(*ll*) Amounts received as advances and/or grants under the federal Coronavirus Aid, Relief, and Economic Security Act, the Consolidated Appropriations Act of 2021 and the American Rescue Plan Act.

(mm) Any and all cancelled indebtedness provided for under the Coronavirus Aid, Relief, and Economic Security Act and the Consolidated Appropriations Act of 2021.

(nn) Amounts received as payments under Section 27-3-85.

(oo) Amounts received as grants under the 2020 COVID-19 Mississippi Business Assistance Act.

(pp) Amounts received as grants under Section 57-1-521.

(rr) Amounts received as grants under the Shuttered Venue Operators Grant Program and Restaurant Revitalization Fund authorized by the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, and amended by the American Rescue Plan Act.

(ss) Amounts received as grants under the Mississippi Agriculture Stabilization Act.

(5) Prisoners of war, missing in action-taxable status.

(a) **Members of the Armed Forces.** Gross income does not include compensation received for active service as a member of the Armed Forces of the United States for any month during any part of which such member is in a missing status, as defined in paragraph (d) of this subsection, during the Vietnam Conflict as a result of such conflict.

(b) **Civilian employees.** Gross income does not include compensation received for active service as an employee for any month during any part of which such employee is in a missing status during the Vietnam Conflict as a result of such conflict.

(c) **Period of conflict.** For the purpose of this subsection, the Vietnam Conflict began February 28, 1961, and ends on the date designated by the President by Executive Order as the date of the termination of combatant activities in Vietnam. For the purpose of this subsection, an individual is in a missing status as a result of the Vietnam Conflict if immediately before such status began he was performing service in Vietnam or was performing service in Southeast Asia in direct support of military operations in Vietnam. "Southeast Asia," as used in this paragraph, is defined to include Cambodia, Laos, Thailand and waters adjacent thereto.

(d) "Missing status" means the status of an employee or member of the Armed Forces who is in active service and is officially carried or determined to be absent in a status of (i) missing; (ii) missing in action; (iii) interned in a foreign country; (iv) captured, beleaguered or besieged by a hostile force; or (v) detained in a foreign country against his will; but does not include the status of an employee or member of the Armed Forces for a period during which he is officially determined to be absent from his post of duty without authority.

(e) "Active service" means active federal service by an employee or member of the Armed Forces of the United States in an active duty status.

(f) "Employee" means one who is a citizen or national of the United States or an alien admitted to the United States for permanent residence and is a resident of the State of Mississippi and is employed in or under a federal executive agency or department of the Armed Forces.

(g) "Compensation" means (i) basic pay; (ii) special pay; (iii) incentive pay; (iv) basic allowance for quarters; (v) basic allowance for subsistence; and (vi) station per diem allowances for not more than ninety (90) days.

(h) If refund or credit of any overpayment of tax for any taxable year resulting from the application of this subsection (5) is prevented by the operation of any law or rule of law, such refund or credit of such overpayment of tax may, nevertheless, be made or allowed if claim therefor is filed with the Department of Revenue within three (3) years after the date of the enactment of this subsection.

(i) The provisions of this subsection shall be effective for taxable years ending on or after February 28, 1961.

(6) A shareholder of an S corporation, as defined in Section 27-8-3(1)(g), shall take into account the income, loss, deduction or credit of the S corporation only to the extent provided in Section 27-8-7(2).

HISTORY: Codes, 1942, § 9220-08; Laws, 1934, ch. 120; Laws, 1936, ch. 151; Laws, 1940, ch. 123; Laws, 1942, chs. 125, 129; Laws, 1944, ch. 122; Laws, 1948, ch. 464, § 1; Laws, 1952, ch. 402, § 7; Laws, 1954, ch. 366; Laws, 1966, ch. 628, § 2; Laws, 1973, ch. 504, § 1; Laws, 1978, ch. 475, § 1; Laws, 1982, ch. 489, § 1; Laws, 1984, ch. 393, § 8; Laws, 1986, ch. 393, § 1; Laws, 1986, ch. 513, § 8; brought forward without change, Laws, 1987, ch. 345, § 8; Laws, 1987, ch. 423, § 1; Laws, 1990, ch. 523, § 5; Laws, 1993, ch. 377, § 1; Laws, 1993, ch. 456, § 13; Laws, 1993, ch. 523, § 1; Laws, 1994, ch. 468, § 6; Laws, 1997, ch. 606, § 8; Laws, 1998, ch. 448, § 1; Laws, 1999, ch. 446, § 1; Laws, 2000, ch. 473, § 16; Laws, 2001, ch. 452, § 2; Laws, 2001, ch. 586, § 2; Laws, 2002, ch. 516, § 2; Laws, 2003, ch. 319, § 2; Laws, 2004, ch. 500, § 1; Laws, 2005, ch. 443, § 1; Laws, 2005, ch. 484, § 6; Laws, 2005, 5th Ex Sess, ch. 22, § 1; Laws, 2006, ch. 497, § 1; Laws, 2007, ch. 443, § 1; Laws, 2008, ch. 489, § 1; Laws, 2009, ch. 349, § 1; Laws, 2010, ch. 430, § 1; Laws, 2015, ch. 420, § 6; Laws, 2015, ch. 457, § 5; Laws, 2017, ch. 350, § 15; Laws, 2017, ch. 376, § 3, eff from and after March 20, 2017; Laws, 2018, ch. 415, § 1, eff from and after January 1, 2018; Laws, 2020, ch. 421, § 1, eff from and after January 1, 2020; Laws, 2020, ch. 503, § 4, eff from and after January 1, 2020; Laws, 2022, ch. 347, § 1, eff from and after January 1, 2020.

Editor's Notes — Laws of 2018, ch. 415, § 2, effective January 1, 2018, provides:

"Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Laws of 2020, ch. 421, § 2, effective January 1, 2020, provides:

"SECTION 2. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any

warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Laws of 2020, ch. 503, § 1, effective October 9, 2020, provides:

"SECTION 1. This act shall be known and may be cited as the 'Rental Assistance Grant Program.'"

Laws of 2020, ch. 503, § 5, effective January 1, 2020, provides:

"SECTION 5. Section 4 of this act shall take effect and be in force from and after January 1, 2020, and the remainder of this act shall take effect and be in force from and after its passage."

Amendment Notes — The 2018 amendment, effective January 1, 2018, added (4)(kk).

The first 2020 amendment (ch. 421), effective January 1, 2020, added (4)(*ll*) through (oo).

The second 2020 amendment (ch. 503), effective January 1, 2020, added (4)(pp).

The 2022 amendment, effective January 1, 2020, in (4), added "the Consolidated Appropriations Act of 2021 and the American Rescue Plan Act" in (*ll*), added "and the Consolidated Appropriations Act of 2021" in (mm), and added (rr) and (ss).

Federal Aspects — Coronavirus Aid, Relief, and Economic Security (CARES) Act, see 116 P.L. 136, 134 Stat. 281.

Consolidated Appropriations Act, 2021, see 116 P.L. 260, 134 Stat. 1182.

American Rescue Plan Act, see 117 P.L. 2, 135 Stat. 4.

§ 27-7-17. Deductions allowed.

[Through February 1, 2022, this section shall read as follows:]

In computing taxable income, there shall be allowed as deductions:

(1) **Business deductions.**

(a) **Business expenses.** All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; nonreimbursable traveling expenses incident to current employment, including a reasonable amount expended for meals and lodging while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition of the continued use or possession, for purposes of the trade or business of property to which the taxpayer has not taken or is not taking title or in which he had no equity. Expense incurred in connection with earning and distributing nontaxable income is not an allowable deduction. Limitations on entertainment expenses shall conform to the provisions of the Internal Revenue Code of 1986.

(b) **Interest.** All interest paid or accrued during the taxable year on business indebtedness, except interest upon the indebtedness for the purchase of tax-free bonds, or any stocks, the dividends from which are nontaxable under the provisions of this article; provided, however, in the case of securities dealers, interest payments or accruals on loans, the proceeds of which are used to purchase tax-exempt securities, shall be deductible if income from otherwise tax-free securities is reported as income. Investment interest expense shall be limited to investment income. Interest expense incurred for the purchase of treasury stock, to pay dividends, or incurred as a result of an undercapitalized affiliated

corporation may not be deducted unless an ordinary and necessary business purpose can be established to the satisfaction of the commissioner. For the purposes of this paragraph, the phrase "interest upon the indebtedness for the purchase of tax-free bonds" applies only to the indebtedness incurred for the purpose of directly purchasing tax-free bonds and does not apply to any other indebtedness incurred in the regular course of the taxpayer's business. Any corporation, association, organization or other entity taxable under Section 27-7-23(c) shall allocate interest expense as provided in Section 27-7-23(c)(3)(I).

(c) **Taxes.** Taxes paid or accrued within the taxable year, except state and federal income taxes, excise taxes based on or measured by net income, estate and inheritance taxes, gift taxes, cigar and cigarette taxes, gasoline taxes, and sales and use taxes unless incurred as an item of expense in a trade or business or in the production of taxable income. In the case of an individual, taxes permitted as an itemized deduction under the provisions of subsection (3)(a) of this section are to be claimed thereunder.

(d) **Business losses.**

(i) Losses sustained during the taxable year not compensated for by insurance or otherwise, if incurred in trade or business, or nonbusiness transactions entered into for profit.

(ii) Limitations on losses from passive activities and rental real estate shall conform to the provisions of the Internal Revenue Code of 1986.

(e) **Bad debts.** Losses from debts ascertained to be worthless and charged off during the taxable year, if sustained in the conduct of the regular trade or business of the taxpayer; provided, that such losses shall be allowed only when the taxpayer has reported as income, on the accrual basis, the amount of such debt or account.

(f) **Depreciation.** A reasonable allowance for exhaustion, wear and tear of property used in the trade or business, or rental property, and depreciation upon buildings based upon their reasonable value as of March 16, 1912, if acquired prior thereto, and upon cost if acquired subsequent to that date. In the case of new or used aircraft, equipment, engines, or other parts and tools used for aviation, allowance for bonus depreciation conforms with the federal bonus depreciation rates and reasonable allowance for depreciation under this section is no less than one hundred percent (100%).

(g) **Depletion.** In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements, based upon cost, including cost of development, not otherwise deducted, or fair market value as of March 16, 1912, if acquired prior to that date, such allowance to be made upon regulations prescribed by the commissioner, with the approval of the Governor.

(h) **Contributions or gifts.** Except as otherwise provided in paragraph (p) of this subsection or subsection (3)(a) of this section for

individuals, contributions or gifts made by corporations within the taxable year to corporations, organizations, associations or institutions, including Community Chest funds, foundations and trusts created solely and exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inure to the benefit of any private stockholder or individual. This deduction shall be allowed in an amount not to exceed twenty percent (20%) of the net income. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the commissioner, with the approval of the Governor. Contributions made in any form other than cash shall be allowed as a deduction, subject to the limitations herein provided, in an amount equal to the actual market value of the contributions at the time the contribution is actually made and consummated.

(i) **Reserve funds — insurance companies.** In the case of insurance companies the net additions required by law to be made within the taxable year to reserve funds when such reserve funds are maintained for the purpose of liquidating policies at maturity.

(j) **Annuity income.** The sums, other than dividends, paid within the taxpayer year on policy or annuity contracts when such income has been included in gross income.

(k) **Contributions to employee pension plans.** Contributions made by an employer to a plan or a trust forming part of a pension plan, stock bonus plan, disability or death-benefit plan, or profit-sharing plan of such employer for the exclusive benefit of some or all of his, their, or its employees, or their beneficiaries, shall be deductible from his, their, or its income only to the extent that, and for the taxable year in which, the contribution is deductible for federal income tax purposes under the Internal Revenue Code of 1986 and any other provisions of similar purport in the Internal Revenue Laws of the United States, and the rules, regulations, rulings and determinations promulgated thereunder, provided that:

(i) The plan or trust be irrevocable.

(ii) The plan or trust constitute a part of a pension plan, stock bonus plan, disability or death-benefit plan, or profit-sharing plan for the exclusive benefit of some or all of the employer's employees and/or officers, or their beneficiaries, for the purpose of distributing the corpus and income of the plan or trust to such employees and/or officers, or their beneficiaries.

(iii) No part of the corpus or income of the plan or trust can be used for purposes other than for the exclusive benefit of employees and/or officers, or their beneficiaries.

Contributions to all plans or to all trusts of real or personal property (or real and personal property combined) or to insured plans created under a retirement plan for which provision has been made under the laws of the United States of America, making such contributions deductible from

income for federal income tax purposes, shall be deductible only to the same extent under the Income Tax Laws of the State of Mississippi.

(*l*) **Net operating loss carrybacks and carryovers.** A net operating loss for any taxable year ending after December 31, 1993, and taxable years thereafter, shall be a net operating loss carryback to each of the three (3) taxable years preceding the taxable year of the loss. If the net operating loss for any taxable year is not exhausted by carrybacks to the three (3) taxable years preceding the taxable year of the loss, then there shall be a net operating loss carryover to each of the fifteen (15) taxable years following the taxable year of the loss beginning with any taxable year after December 31, 1991.

For any taxable year ending after December 31, 1997, the period for net operating loss carrybacks and net operating loss carryovers shall be the same as those established by the Internal Revenue Code and the rules, regulations, rulings and determinations promulgated thereunder as in effect at the taxable year end or on December 31, 2000, whichever is earlier.

A net operating loss for any taxable year ending after December 31, 2001, and taxable years thereafter, shall be a net operating loss carryback to each of the two (2) taxable years preceding the taxable year of the loss. If the net operating loss for any taxable year is not exhausted by carrybacks to the two (2) taxable years preceding the taxable year of the loss, then there shall be a net operating loss carryover to each of the twenty (20) taxable years following the taxable year of the loss beginning with any taxable year after the taxable year of the loss.

The term "net operating loss," for the purposes of this paragraph, shall be the excess of the deductions allowed over the gross income; provided, however, the following deductions shall not be allowed in computing same:

(i) No net operating loss deduction shall be allowed.

(ii) No personal exemption deduction shall be allowed.

(iii) Allowable deductions which are not attributable to taxpayer's trade or business shall be allowed only to the extent of the amount of gross income not derived from such trade or business.

Any taxpayer entitled to a carryback period as provided by this paragraph may elect to relinquish the entire carryback period with respect to a net operating loss for any taxable year ending after December 31, 1991. The election shall be made in the manner prescribed by the Department of Revenue and shall be made by the due date, including extensions of time, for filing the taxpayer's return for the taxable year of the net operating loss for which the election is to be in effect. The election, once made for any taxable year, shall be irrevocable for that taxable year.

(m) **Amortization of pollution or environmental control facilities.** Allowance of deduction. Every taxpayer, at his election, shall be entitled to a deduction for pollution or environmental control facilities to the same extent as that allowed under the Internal Revenue Code and the rules, regulations, rulings and determinations promulgated thereunder.

(n) **Dividend distributions — real estate investment trusts.** "Real estate investment trust" (hereinafter referred to as REIT) shall have the meaning ascribed to such term in Section 856 of the federal Internal Revenue Code of 1986, as amended. A REIT is allowed a dividend distributed deduction if the dividend distributions meet the requirements of Section 857 or are otherwise deductible under Section 858 or 860, federal Internal Revenue Code of 1986, as amended. In addition:

(i) A dividend distributed deduction shall only be allowed for dividends paid by a publicly traded REIT. A qualified REIT subsidiary shall be allowed a dividend distributed deduction if its owner is a publicly traded REIT.

(ii) Income generated from real estate contributed or sold to a REIT by a shareholder or related party shall not give rise to a dividend distributed deduction, unless the shareholder or related party would have received the dividend distributed deduction under this chapter.

(iii) A holding corporation receiving a dividend from a REIT shall not be allowed the deduction in Section 27-7-15(4)(t).

(iv) Any REIT not allowed the dividend distributed deduction in the federal Internal Revenue Code of 1986, as amended, shall not be allowed a dividend distributed deduction under this chapter.

The commissioner is authorized to promulgate rules and regulations consistent with the provisions in Section 269 of the federal Internal Revenue Code of 1986, as amended, so as to prevent the evasion or avoidance of state income tax.

(o) **Contributions to college savings trust fund accounts.** Contributions or payments to a Mississippi Affordable College Savings Program account are deductible as provided under Section 37-155-113. Payments made under a prepaid tuition contract entered into under the Mississippi Prepaid Affordable College Tuition Program are deductible as provided under Section 37-155-17.

(p) **Contributions of human pharmaceutical products.** To the extent that a "major supplier" as defined in Section 27-13-13(2)(d) contributes human pharmaceutical products in excess of Two Hundred Fifty Million Dollars ($250,000,000.00) as determined under Section 170 of the Internal Revenue Code, the charitable contribution limitation associated with those donations shall follow the federal limitation but cannot result in the Mississippi net income being reduced below zero.

(q) **Contributions to ABLE trust fund accounts.** Contributions or payments to a Mississippi Achieving a Better Life Experience (ABLE) Program account are deductible as provided under Section 43-28-13.

(2) **Restrictions on the deductibility of certain intangible expenses and interest expenses with a related member.**

(a) As used in this subsection (2):

(i) "Intangible expenses and costs" include:

1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use,

maintenance or management, ownership, sale, exchange or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income under this chapter;

2. Expenses or losses related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;

3. Royalty, patent, technical and copyright fees;

4. Licensing fees; and

5. Other similar expenses and costs.

(ii) "Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights and similar types of intangible assets.

(iii) "Interest expenses and cost" means amounts directly or indirectly allowed as deductions for purposes of determining taxable income under this chapter to the extent such interest expenses and costs are directly or indirectly for, related to, or in connection with the direct or indirect acquisition, maintenance, management, ownership, sale, exchange or disposition of intangible property.

(iv) "Related member" means an entity or person that, with respect to the taxpayer during all or any portion of the taxable year, is a related entity, a component member as defined in the Internal Revenue Code, or is an entity or a person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code.

(v) "Related entity" means:

1. A stockholder who is an individual or a member of the stockholder's family, as defined in regulations prescribed by the commissioner, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

2. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and corporations own, directly, indirectly, beneficially or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

3. A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation, if the taxpayer owns, directly, indirectly, beneficially or constructively, at least fifty percent (50%) of the value of the corporation's outstanding stock under regulation prescribed by the commissioner;

4. Any entity or person which would be a related member under this section if the taxpayer were considered a corporation for purposes of this section.

(b) In computing net income, a taxpayer shall add back otherwise deductible interest expenses and costs and intangible expenses and costs directly or indirectly paid, accrued to or incurred, in connection directly or indirectly with one or more direct or indirect transactions with one or more related members.

(c) The adjustments required by this subsection shall not apply to such portion of interest expenses and costs and intangible expenses and costs that the taxpayer can establish meets one (1) of the following:

(i) The related member directly or indirectly paid, accrued or incurred such portion to a person during the same income year who is not a related member; or

(ii) The transaction giving rise to the interest expenses and costs or intangible expenses and costs between the taxpayer and related member was done primarily for a valid business purpose other than the avoidance of taxes, and the related member is not primarily engaged in the acquisition, use, maintenance or management, ownership, sale, exchange or any other disposition of intangible property.

(d) Nothing in this subsection shall require a taxpayer to add to its net income more than once any amount of interest expenses and costs or intangible expenses and costs that the taxpayer pays, accrues or incurs to a related member.

(e) The commissioner may prescribe such regulations as necessary or appropriate to carry out the purposes of this subsection, including, but not limited to, clarifying definitions of terms, rules of stock attribution, factoring and discount transactions.

(3) **Individual nonbusiness deductions.**

(a) The amount allowable for individual nonbusiness itemized deductions for federal income tax purposes where the individual is eligible to elect, for the taxable year, to itemize deductions on his federal return except the following:

(i) The deduction for state income taxes paid or other taxes allowed for federal purposes in lieu of state income taxes paid;

(ii) The deduction for gaming losses from gaming establishments;

(iii) The deduction for taxes collected by licensed gaming establishments pursuant to Section 27-7-901;

(iv) The deduction for taxes collected by gaming establishments pursuant to Section 27-7-903.

(b) In lieu of the individual nonbusiness itemized deductions authorized in paragraph (a), for all purposes other than ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, an optional standard deduction of:

(i) Three Thousand Four Hundred Dollars ($3,400.00) through calendar year 1997, Four Thousand Two Hundred Dollars ($4,200.00) for the calendar year 1998 and Four Thousand Six Hundred Dollars ($4,600.00) for each calendar year thereafter in the case of married individuals filing a joint or combined return;

(ii) One Thousand Seven Hundred Dollars ($1,700.00) through calendar year 1997, Two Thousand One Hundred Dollars ($2,100.00) for the calendar year 1998 and Two Thousand Three Hundred Dollars ($2,300.00) for each calendar year thereafter in the case of married individuals filing separate returns;

(iii) Three Thousand Four Hundred Dollars ($3,400.00) in the case of a head of family; or

(iv) Two Thousand Three Hundred Dollars ($2,300.00) in the case of an individual who is not married.

In the case of a husband and wife living together, having separate incomes, and filing combined returns, the standard deduction authorized may be divided in any manner they choose. In the case of separate returns by a husband and wife, the standard deduction shall not be allowed to either if the taxable income of one of the spouses is determined without regard to the standard deduction.

(c) A nonresident individual shall be allowed the same individual nonbusiness deductions as are authorized for resident individuals in paragraph (a) or (b) of this subsection; however, the nonresident individual is entitled only to that proportion of the individual nonbusiness deductions as his net income from sources within the State of Mississippi bears to his total or entire net income from all sources.

(4) Nothing in this section shall permit the same item to be deducted more than once, either in fact or in effect.

(5) Notwithstanding any other provision in Title 27, Mississippi Code of 1972, there shall be allowed an income tax deduction for otherwise deductible expenses if:

(a) The payment(s) for such deductible expenses are made with the grant or loan program of the Paycheck Protection Program as authorized under (i) the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Consolidated Appropriations Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan Program, (iii) the 2020 COVID-19 Mississippi Business Assistance Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered Venue Operators Grant Program and Restaurant Revitalization Fund authorized by the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, and amended by the federal American Rescue Plan Act, and/or (vi) the Mississippi Agriculture Stabilization Act; and

(b) Such deductible expenses shall be allowed as deductions for federal income tax purposes.

[From and after February 2, 2022, this section shall read as follows:]

In computing taxable income, there shall be allowed as deductions:

(1) **Business deductions.**

(a) **Business expenses.** All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compen-

sation for personal services actually rendered; nonreimbursable traveling expenses incident to current employment, including a reasonable amount expended for meals and lodging while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition of the continued use or possession, for purposes of the trade or business of property to which the taxpayer has not taken or is not taking title or in which he had no equity. Expense incurred in connection with earning and distributing nontaxable income is not an allowable deduction. Limitations on entertainment expenses shall conform to the provisions of the Internal Revenue Code of 1986. There shall also be allowed a deduction for expenses as provided in Section 41-137-51.

(b) **Interest.** All interest paid or accrued during the taxable year on business indebtedness, except interest upon the indebtedness for the purchase of tax-free bonds, or any stocks, the dividends from which are nontaxable under the provisions of this article; provided, however, in the case of securities dealers, interest payments or accruals on loans, the proceeds of which are used to purchase tax-exempt securities, shall be deductible if income from otherwise tax-free securities is reported as income. Investment interest expense shall be limited to investment income. Interest expense incurred for the purchase of treasury stock, to pay dividends, or incurred as a result of an undercapitalized affiliated corporation may not be deducted unless an ordinary and necessary business purpose can be established to the satisfaction of the commissioner. For the purposes of this paragraph, the phrase "interest upon the indebtedness for the purchase of tax-free bonds" applies only to the indebtedness incurred for the purpose of directly purchasing tax-free bonds and does not apply to any other indebtedness incurred in the regular course of the taxpayer's business. Any corporation, association, organization or other entity taxable under Section 27-7-23(c) shall allocate interest expense as provided in Section 27-7-23(c)(3)(I).

(c) **Taxes.** Taxes paid or accrued within the taxable year, except state and federal income taxes, excise taxes based on or measured by net income, estate and inheritance taxes, gift taxes, cigar and cigarette taxes, gasoline taxes, and sales and use taxes unless incurred as an item of expense in a trade or business or in the production of taxable income. In the case of an individual, taxes permitted as an itemized deduction under the provisions of subsection (3)(a) of this section are to be claimed thereunder.

(d) **Business losses.**

(i) Losses sustained during the taxable year not compensated for by insurance or otherwise, if incurred in trade or business, or nonbusiness transactions entered into for profit.

(ii) Limitations on losses from passive activities and rental real estate shall conform to the provisions of the Internal Revenue Code of 1986.

(e) **Bad debts.** Losses from debts ascertained to be worthless and charged off during the taxable year, if sustained in the conduct of the

regular trade or business of the taxpayer; provided, that such losses shall be allowed only when the taxpayer has reported as income, on the accrual basis, the amount of such debt or account.

(f) **Depreciation.** A reasonable allowance for exhaustion, wear and tear of property used in the trade or business, or rental property, and depreciation upon buildings based upon their reasonable value as of March 16, 1912, if acquired prior thereto, and upon cost if acquired subsequent to that date. In the case of new or used aircraft, equipment, engines, or other parts and tools used for aviation, allowance for bonus depreciation conforms with the federal bonus depreciation rates and reasonable allowance for depreciation under this section is no less than one hundred percent (100%).

(g) **Depletion.** In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements, based upon cost, including cost of development, not otherwise deducted, or fair market value as of March 16, 1912, if acquired prior to that date, such allowance to be made upon regulations prescribed by the commissioner, with the approval of the Governor.

(h) **Contributions or gifts.** Except as otherwise provided in paragraph (p) of this subsection or subsection (3)(a) of this section for individuals, contributions or gifts made by corporations within the taxable year to corporations, organizations, associations or institutions, including Community Chest funds, foundations and trusts created solely and exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inure to the benefit of any private stockholder or individual. This deduction shall be allowed in an amount not to exceed twenty percent (20%) of the net income. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the commissioner, with the approval of the Governor. Contributions made in any form other than cash shall be allowed as a deduction, subject to the limitations herein provided, in an amount equal to the actual market value of the contributions at the time the contribution is actually made and consummated.

(i) **Reserve funds — insurance companies.** In the case of insurance companies the net additions required by law to be made within the taxable year to reserve funds when such reserve funds are maintained for the purpose of liquidating policies at maturity.

(j) **Annuity income.** The sums, other than dividends, paid within the taxpayer year on policy or annuity contracts when such income has been included in gross income.

(k) **Contributions to employee pension plans.** Contributions made by an employer to a plan or a trust forming part of a pension plan, stock bonus plan, disability or death-benefit plan, or profit-sharing plan of such employer for the exclusive benefit of some or all of his, their, or its employees, or their beneficiaries, shall be deductible from his, their, or its

income only to the extent that, and for the taxable year in which, the contribution is deductible for federal income tax purposes under the Internal Revenue Code of 1986 and any other provisions of similar purport in the Internal Revenue Laws of the United States, and the rules, regulations, rulings and determinations promulgated thereunder, provided that:

(i) The plan or trust be irrevocable.

(ii) The plan or trust constitute a part of a pension plan, stock bonus plan, disability or death-benefit plan, or profit-sharing plan for the exclusive benefit of some or all of the employer's employees and/or officers, or their beneficiaries, for the purpose of distributing the corpus and income of the plan or trust to such employees and/or officers, or their beneficiaries.

(iii) No part of the corpus or income of the plan or trust can be used for purposes other than for the exclusive benefit of employees and/or officers, or their beneficiaries.

Contributions to all plans or to all trusts of real or personal property (or real and personal property combined) or to insured plans created under a retirement plan for which provision has been made under the laws of the United States of America, making such contributions deductible from income for federal income tax purposes, shall be deductible only to the same extent under the Income Tax Laws of the State of Mississippi.

(*l*) **Net operating loss carrybacks and carryovers.** A net operating loss for any taxable year ending after December 31, 1993, and taxable years thereafter, shall be a net operating loss carryback to each of the three (3) taxable years preceding the taxable year of the loss. If the net operating loss for any taxable year is not exhausted by carrybacks to the three (3) taxable years preceding the taxable year of the loss, then there shall be a net operating loss carryover to each of the fifteen (15) taxable years following the taxable year of the loss beginning with any taxable year after December 31, 1991.

For any taxable year ending after December 31, 1997, the period for net operating loss carrybacks and net operating loss carryovers shall be the same as those established by the Internal Revenue Code and the rules, regulations, rulings and determinations promulgated thereunder as in effect at the taxable year end or on December 31, 2000, whichever is earlier.

A net operating loss for any taxable year ending after December 31, 2001, and taxable years thereafter, shall be a net operating loss carryback to each of the two (2) taxable years preceding the taxable year of the loss. If the net operating loss for any taxable year is not exhausted by carrybacks to the two (2) taxable years preceding the taxable year of the loss, then there shall be a net operating loss carryover to each of the twenty (20) taxable years following the taxable year of the loss beginning with any taxable year after the taxable year of the loss.

The term "net operating loss," for the purposes of this paragraph, shall be the excess of the deductions allowed over the gross income;

provided, however, the following deductions shall not be allowed in computing same:

(i) No net operating loss deduction shall be allowed.

(ii) No personal exemption deduction shall be allowed.

(iii) Allowable deductions which are not attributable to taxpayer's trade or business shall be allowed only to the extent of the amount of gross income not derived from such trade or business.

Any taxpayer entitled to a carryback period as provided by this paragraph may elect to relinquish the entire carryback period with respect to a net operating loss for any taxable year ending after December 31, 1991. The election shall be made in the manner prescribed by the Department of Revenue and shall be made by the due date, including extensions of time, for filing the taxpayer's return for the taxable year of the net operating loss for which the election is to be in effect. The election, once made for any taxable year, shall be irrevocable for that taxable year.

(m) **Amortization of pollution or environmental control facilities.** Allowance of deduction. Every taxpayer, at his election, shall be entitled to a deduction for pollution or environmental control facilities to the same extent as that allowed under the Internal Revenue Code and the rules, regulations, rulings and determinations promulgated thereunder.

(n) **Dividend distributions — real estate investment trusts.** "Real estate investment trust" (hereinafter referred to as REIT) shall have the meaning ascribed to such term in Section 856 of the federal Internal Revenue Code of 1986, as amended. A REIT is allowed a dividend distributed deduction if the dividend distributions meet the requirements of Section 857 or are otherwise deductible under Section 858 or 860, federal Internal Revenue Code of 1986, as amended. In addition:

(i) A dividend distributed deduction shall only be allowed for dividends paid by a publicly traded REIT. A qualified REIT subsidiary shall be allowed a dividend distributed deduction if its owner is a publicly traded REIT.

(ii) Income generated from real estate contributed or sold to a REIT by a shareholder or related party shall not give rise to a dividend distributed deduction, unless the shareholder or related party would have received the dividend distributed deduction under this chapter.

(iii) A holding corporation receiving a dividend from a REIT shall not be allowed the deduction in Section 27-7-15(4)(t).

(iv) Any REIT not allowed the dividend distributed deduction in the federal Internal Revenue Code of 1986, as amended, shall not be allowed a dividend distributed deduction under this chapter.

The commissioner is authorized to promulgate rules and regulations consistent with the provisions in Section 269 of the federal Internal Revenue Code of 1986, as amended, so as to prevent the evasion or avoidance of state income tax.

(o) **Contributions to college savings trust fund accounts.** Contributions or payments to a Mississippi Affordable College Savings Pro-

gram account are deductible as provided under Section 37-155-113. Payments made under a prepaid tuition contract entered into under the Mississippi Prepaid Affordable College Tuition Program are deductible as provided under Section 37-155-17.

(p) **Contributions of human pharmaceutical products.** To the extent that a "major supplier" as defined in Section 27-13-13(2)(d) contributes human pharmaceutical products in excess of Two Hundred Fifty Million Dollars ($250,000,000.00) as determined under Section 170 of the Internal Revenue Code, the charitable contribution limitation associated with those donations shall follow the federal limitation but cannot result in the Mississippi net income being reduced below zero.

(q) **Contributions to ABLE trust fund accounts.** Contributions or payments to a Mississippi Achieving a Better Life Experience (ABLE) Program account are deductible as provided under Section 43-28-13.

(2) **Restrictions on the deductibility of certain intangible expenses and interest expenses with a related member.**

(a) As used in this subsection (2):

(i) "Intangible expenses and costs" include:

1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income under this chapter;

2. Expenses or losses related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;

3. Royalty, patent, technical and copyright fees;

4. Licensing fees; and

5. Other similar expenses and costs.

(ii) "Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights and similar types of intangible assets.

(iii) "Interest expenses and cost" means amounts directly or indirectly allowed as deductions for purposes of determining taxable income under this chapter to the extent such interest expenses and costs are directly or indirectly for, related to, or in connection with the direct or indirect acquisition, maintenance, management, ownership, sale, exchange or disposition of intangible property.

(iv) "Related member" means an entity or person that, with respect to the taxpayer during all or any portion of the taxable year, is a related entity, a component member as defined in the Internal Revenue Code, or is an entity or a person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code.

(v) "Related entity" means:

1. A stockholder who is an individual or a member of the stockholder's family, as defined in regulations prescribed by the

commissioner, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

2. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and corporations own, directly, indirectly, beneficially or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

3. A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation, if the taxpayer owns, directly, indirectly, beneficially or constructively, at least fifty percent (50%) of the value of the corporation's outstanding stock under regulation prescribed by the commissioner;

4. Any entity or person which would be a related member under this section if the taxpayer were considered a corporation for purposes of this section.

(b) In computing net income, a taxpayer shall add back otherwise deductible interest expenses and costs and intangible expenses and costs directly or indirectly paid, accrued to or incurred, in connection directly or indirectly with one or more direct or indirect transactions with one or more related members.

(c) The adjustments required by this subsection shall not apply to such portion of interest expenses and costs and intangible expenses and costs that the taxpayer can establish meets one (1) of the following:

(i) The related member directly or indirectly paid, accrued or incurred such portion to a person during the same income year who is not a related member; or

(ii) The transaction giving rise to the interest expenses and costs or intangible expenses and costs between the taxpayer and related member was done primarily for a valid business purpose other than the avoidance of taxes, and the related member is not primarily engaged in the acquisition, use, maintenance or management, ownership, sale, exchange or any other disposition of intangible property.

(d) Nothing in this subsection shall require a taxpayer to add to its net income more than once any amount of interest expenses and costs or intangible expenses and costs that the taxpayer pays, accrues or incurs to a related member.

(e) The commissioner may prescribe such regulations as necessary or appropriate to carry out the purposes of this subsection, including, but not limited to, clarifying definitions of terms, rules of stock attribution, factoring and discount transactions.

(3) **Individual nonbusiness deductions.**

(a) The amount allowable for individual nonbusiness itemized deductions for federal income tax purposes where the individual is eligible to

elect, for the taxable year, to itemize deductions on his federal return except the following:

(i) The deduction for state income taxes paid or other taxes allowed for federal purposes in lieu of state income taxes paid;

(ii) The deduction for gaming losses from gaming establishments;

(iii) The deduction for taxes collected by licensed gaming establishments pursuant to Section 27-7-901;

(iv) The deduction for taxes collected by gaming establishments pursuant to Section 27-7-903.

(b) In lieu of the individual nonbusiness itemized deductions authorized in paragraph (a), for all purposes other than ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, an optional standard deduction of:

(i) Three Thousand Four Hundred Dollars ($3,400.00) through calendar year 1997, Four Thousand Two Hundred Dollars ($4,200.00) for the calendar year 1998 and Four Thousand Six Hundred Dollars ($4,600.00) for each calendar year thereafter in the case of married individuals filing a joint or combined return;

(ii) One Thousand Seven Hundred Dollars ($1,700.00) through calendar year 1997, Two Thousand One Hundred Dollars ($2,100.00) for the calendar year 1998 and Two Thousand Three Hundred Dollars ($2,300.00) for each calendar year thereafter in the case of married individuals filing separate returns;

(iii) Three Thousand Four Hundred Dollars ($3,400.00) in the case of a head of family; or

(iv) Two Thousand Three Hundred Dollars ($2,300.00) in the case of an individual who is not married.

In the case of a husband and wife living together, having separate incomes, and filing combined returns, the standard deduction authorized may be divided in any manner they choose. In the case of separate returns by a husband and wife, the standard deduction shall not be allowed to either if the taxable income of one of the spouses is determined without regard to the standard deduction.

(c) A nonresident individual shall be allowed the same individual nonbusiness deductions as are authorized for resident individuals in paragraph (a) or (b) of this subsection; however, the nonresident individual is entitled only to that proportion of the individual nonbusiness deductions as his net income from sources within the State of Mississippi bears to his total or entire net income from all sources.

(4) Nothing in this section shall permit the same item to be deducted more than once, either in fact or in effect.

(5) Notwithstanding any other provision in Title 27, Mississippi Code of 1972, there shall be allowed an income tax deduction for otherwise deductible expenses if:

(a) The payment(s) for such deductible expenses are made with the grant or loan program of the Paycheck Protection Program as authorized

under (i) the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Consolidated Appropriations Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan Program, (iii) the 2020 COVID-19 Mississippi Business Assistance Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered Venue Operators Grant Program and Restaurant Revitalization Fund authorized by the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, and amended by the federal American Rescue Plan Act, and/or (vi) the Mississippi Agriculture Stabilization Act; and

(b) Such deductible expenses shall be allowed as deductions for federal income tax purposes.

HISTORY: Codes, 1942, § 9220-09; Laws, 1934, ch. 120; Laws, 1936, ch. 151; Laws, 1942, ch. 134; Laws, 1946, ch. 282; Laws, 1948, ch. 437, § 1; Laws, 1952, ch. 402, § 8; Laws, 1956, ch. 427; Laws, 1966, ch. 628, § 3; Laws, 1973, ch. 504, § 2; Laws, 1978, ch. 475, § 2; Laws, 1979, ch. 302, § 2; Laws, 1985, ch. 411, § 1; Laws, 1987, ch. 356, § 1; Laws, 1987, ch. 423, § 3; Laws, 1989, ch. 485, § 2; Laws, 1991, ch. 524, § 9; Laws, 1992, ch. 419, § 1; Laws, 1996, ch. 441, § 67; Laws, 1997, ch. 304, § 1; Laws, 1998, ch. 543, § 2; Laws, 2000, ch. 473, § 17; Laws, 2000, ch. 505, § 1; Laws, 2001, ch. 452, § 3; Laws, 2001, ch. 586, § 3; Laws, 2002, ch. 477, § 1; Laws, 2002, ch. 516, § 3; Laws, 2003, ch. 319, § 3; Laws, 2005, ch. 465, § 1; Laws, 2011, ch. 537, § 2; Laws, 2017, ch. 350, § 16, eff from and after passage (approved Mar. 20, 2017); Laws, 2021, ch. 420, § 1, eff from and after July 1, 2021; Laws, 2022, ch. 303, § 50, eff from and after passage (approved February 2, 2022); Laws, 2022, ch. 347, § 2, eff from and after January 1, 2020; Laws, 2022, ch. 499, § 4, eff from and after January 1, 2020.

Joint Legislative Committee Note — Section 50 of Chapter 303, Laws of 2022, effective from and after passage (approved February 2, 2022), and Section 2 of Chapter 347, effective from and after January 1, 2020 (approved March 17, 2022), and Section 4 of Chapter 499, effective from and after January 1, 2020 (approved April 21, 2022), amended this section. As set out above, the section reflects the language of Section 4 of Chapter 499, which contains language that specifically provides that it supersedes § 27-7-17 as amended by Chapters 303 and 347, Laws of 2022.

Editor's Notes — Laws of 2021, ch. 420, 2, effective July 1, 2021, provides:

"SECTION 2. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Laws of 2022, ch. 498, § 6, effective January 1, 2022, provides:

"SECTION 6. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws, insurance premium tax laws or ad valorem tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws, insurance premium tax laws and ad valorem tax laws are expressly continued in full force, effect and operation for the purpose of the

assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Amendment Notes — The 2021 amendment, in (1)(f), added the last sentence.

The first 2022 amendment (ch. 303), effective February 2, 2022, added the last sentence in (1)(a).

The second 2022 amendment (ch. 347), effective January 1, 2020, added (5).

The third 2022 amendment (ch. 498), effective January 1, 2020, provided two versions of the section; in the version effective through February 1, 2022, added (5); and in the version effective from and after February 2, 2022, added (5).

Cross References — Rental Assistance Grant Program, see § 57-1-521.

2020 COVID-19 Mississippi Business Assistance Act, see § 57-121-1 et seq.

Mississippi Agriculture Stabilization Act, see § 69-55-1 et seq.

Federal Aspects — Coronavirus Aid, Relief, and Economic Security (CARES) Act, see 116 P.L. 136, 134 Stat. 281.

Consolidated Appropriations Act, 2021, see 116 P.L. 260, 134 Stat. 1182.

American Rescue Plan Act, see 117 P.L. 2, 135 Stat. 4.

§ 27-7-21. Exemptions allowed.

(a) **Allowance of deductions.** In the case of a resident individual, the exemptions provided by this section, as applicable to individuals, shall be allowed as deductions in computing taxable income.

(b) **Single individuals.** In the case of a single individual, a personal exemption of Five Thousand Two Hundred Fifty Dollars ($5,250.00) for the 1979 and 1980 calendar years and Six Thousand Dollars ($6,000.00) for each calendar year thereafter.

(c) **Married individuals.** In the case of married individuals living together, a joint personal exemption of Eight Thousand Dollars ($8,000.00) for the 1979 and 1980 calendar years and Nine Thousand Five Hundred Dollars ($9,500.00) for the 1981 through 1997 calendar years, Ten Thousand Dollars ($10,000.00) for the calendar year 1998, Eleven Thousand Dollars ($11,000.00) for the calendar year 1999, and Twelve Thousand Dollars ($12,000.00) for each calendar year thereafter. A husband and wife living together shall receive but one (1) personal exemption in the amounts provided for in this subsection for each calendar year against their aggregate income.

(d) **Head of family individuals.** In the case of a head of family individual, a personal exemption of Eight Thousand Dollars ($8,000.00) for the 1979 and 1980 calendar years and Nine Thousand Five Hundred Dollars ($9,500.00) for each calendar year thereafter. The term "head of family" means an individual who is single, or married but not living with his spouse for the entire taxable year, who maintains a household which constitutes the principal place of abode of himself and one or more individuals who are dependents under the provisions of Section 152(a) of the Internal Revenue Code of 1954, as amended. The head of family individual shall be entitled to the additional dependent exemption as provided in subsection (e) of this section only to the extent of dependents in excess of the one (1) dependent needed to qualify as head of family.

(e) **Additional exemption for dependents.** In the case of any individual having a dependent, other than husband or wife, an additional personal

exemption of One Thousand Five Hundred Dollars ($1,500.00) for each such dependent, except as otherwise provided in subsection (d) of this section. The term "dependent" as used in this subsection shall mean any person or individual who qualifies as a dependent under the provisions of Section 152, Internal Revenue Code of 1954, as amended.

(f) **Additional exemption for taxpayer or spouse aged sixty-five (65) or more.** In the case of any taxpayer or the spouse of the taxpayer who has attained the age of sixty-five (65) before the close of his taxable year, an additional exemption of One Thousand Five Hundred Dollars ($1,500.00).

(g) **Additional exemption for blindness of taxpayer or spouse.** In the case of any taxpayer or the spouse of the taxpayer who is blind at the close of the taxable year, an additional exemption of One Thousand Five Hundred Dollars ($1,500.00). For the purpose of this subsection, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees.

(h) **Husband and wife—claiming exemptions.** In the case of husband and wife living together and filing combined returns, the personal and additional exemptions authorized and allowed by this section may be taken by either, or divided between them in any manner they may choose. If the husband and wife fail to choose, the commissioner shall divide the exemptions between husband and wife in an equitable manner. In the case of a husband and wife filing separate returns, the personal and additional exemptions authorized and allowed by this section shall be divided equally between the spouses.

(i) **Nonresidents.** A nonresident individual shall be allowed the same personal and additional exemptions as are authorized for resident individuals in subsection (a) of this section; however, the nonresident individual is entitled only to that proportion of the personal and additional exemptions as his net income from sources within the State of Mississippi bears to his total or entire net income from all sources.

A nonresident individual who is married and whose spouse has income from independent sources must declare the joint income of himself and his spouse from sources within and without Mississippi and claim as a personal exemption that proportion of the authorized personal and additional exemptions which the total net income from Mississippi sources bears to the total net income of both spouses from all sources. If both spouses have income from sources within Mississippi and wish to file separate returns, their combined personal and additional exemptions shall be that proration of the exemption which their combined net income from Mississippi sources is of their total combined net income from all sources. The amount of the personal and additional exemptions so computed may be divided between them in any manner they choose.

In the case of married individuals where one (1) spouse is a resident and the other is a nonresident, the personal exemption of the resident individual

shall be prorated on the same basis as if both were nonresidents having net income from within and without the State of Mississippi.

For the purpose of this subsection, the term "net income" means gross income less business expenses incurred in the taxpayer's regular trade or business and computed in accordance with the provisions of the Mississippi Income Tax Law.

(j) **Part-year residents.** An individual who is a resident of Mississippi for only a part of his taxable year by reason of either moving into the state or moving from the state shall be allowed the same personal and additional exemptions as authorized for resident individuals in subsection (a) of this section; the part-year resident shall prorate his exemption on the same basis as nonresidents having net income from within and without the state.

(k) **Estates.** In the case of an estate, a specific exemption of Six Hundred Dollars ($600.00).

(*l*) **Trusts.** In the case of a trust which, under its governing instrument, is required to distribute all of its income currently, a specific exemption of Three Hundred Dollars ($300.00). In the case of all other trusts, a specific exemption of One Hundred Dollars ($100.00).

(m) **Corporations, foundations, joint ventures, associations.** In the case of a corporation, foundation, joint venture or association taxable herein, there shall be allowed no specific exemption, except as provided under the Growth and Prosperity Act, Sections 57-113-1 through 57-113-7, and Sections 57-113-21 through 57-113-27.

(n) **Status.** The status on the last day of the taxable year, except in the case of the head of family as provided in subsection (d) of this section, shall determine the right to the exemptions provided in this section; provided, that a taxpayer shall be entitled to such exemptions, otherwise allowable, if the husband or wife or dependent has died during the taxable year.

(o) **Fiscal-year taxpayers.** Individual taxpayers reporting on a fiscal year basis shall prorate their exemptions in a manner established by regulations promulgated by the commissioner.

HISTORY: Codes, 1942, § 9220-11; Laws, 1934, ch. 120; Laws, 1938, ch. 116; Laws, 1940, ch. 123; Laws, 1944, ch. 124; Laws, 1946, ch. 246, § 1; Laws, 1952, ch. 402, § 10; Laws, 1958, ch. 555; Laws, 1960, ch. 456, § 2; Laws, 1960, ch. 457, § 2; Laws, 1966, ch. 629, § 1; Laws, 1968, ch. 580, § 27; Laws, 1973, ch. 504, § 3; Laws, 1979, ch. 302, § 1; Laws, 1982, ch. 489, § 2; Laws, 1997, ch. 304, § 2; Laws, 2000, 2nd Ex Sess, ch. 1, § 48; Laws, 2010, ch. 533, § 20, eff from and after July 1, 2010; Laws, 2019, ch. 396, § 4, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment added "and Sections 57-113-21 through 57-113-27" at the end of (m) and made a related change.

§ 27-7-22. Tax credits for qualified businesses.

(1) For any qualified business, as defined in Section 57-51-5, which is located in a county, or portion thereof, designated as an enterprise zone pursuant to Title 57, Chapter 51, Mississippi Code of 1972, there shall be

allowed as a credit against the tax imposed by this chapter, an amount equal to One Thousand Dollars ($1,000.00) per net full-time employee as determined by the average annual employment of the business reported to the Employment Security Commission. Such credit shall be allowed annually to each qualified business for a period not to exceed ten (10) years. If the amount allowable as a credit exceeds the tax imposed by this chapter, the amount of such excess shall not be refundable or carried forward to any other taxable year.

For the purpose of determining the credit allowed to a qualified business which is an existing trade or business having expanded its buildings and facilities, the number of net full-time employees shall be the difference between the average annual employment of such business before and after such expansion.

If the Mississippi Enterprise Zone Act is repealed, any qualified business which had been granted a tax credit under this subsection prior to the date of such repeal shall be entitled to such tax credit until the period for which it was granted expires.

(2) For any qualified business, as defined in Section 57-54-5, there shall be allowed as a credit against the tax imposed by this chapter, an amount equal to One Thousand Dollars ($1,000.00) per net full-time employee as determined by the average annual employment of the business reported to the Employment Security Commission. Such credit shall be allowed annually to each qualified business for a period not to exceed ten (10) years. If the amount allowable as a credit exceeds the tax imposed by this chapter, the amount of such excess shall not be refundable or carried forward to any other taxable year.

For the purpose of determining the credit allowed to a qualified business which is an existing trade or business having expanded its buildings and facilities, the number of net full-time employees shall be the difference between the average annual employment of such business before and after such expansion.

If the Mississippi Advanced Technology Initiative Act is repealed, any qualified business which had been granted a tax credit under this subsection prior to the date of such repeal shall be entitled to such tax credit until the period for which it was granted expires.

(3) For any qualified company, certified as such by the Mississippi Board of Economic Development under Section 57-53-1, there shall be allowed as a credit against the tax imposed by this chapter, an amount equal to One Thousand Dollars ($1,000.00) per net full-time employee in this state, provided there is a minimum of seventy-five (75) net full-time employees, as determined by the average annual employment of the company in this state reported to the Employment Security Commission. Such credit shall be allowed annually to each qualified company for a period not to exceed ten (10) years. If the amount allowable as a credit exceeds the tax imposed by this chapter, the amount of such excess shall not be refundable or carried forward to any other taxable year.

For the purpose of determining the credit allowed to a qualified company which has expanded its existing buildings and facilities, the number of net full-time employees shall be the difference between the average annual employment of such company before and after such expansion.

(4) For any qualified business or industry which is certified as such by the Mississippi Board of Economic Development pursuant to the Mississippi Flexible Tax Incentive Act and awarded any mFlex tax incentive amount for such qualified business's or industry's qualified economic development project, there shall be allowed as a credit against the tax imposed by this chapter, an amount prescribed by, and subject to, the Mississippi Flexible Tax Incentive Act.

HISTORY: Laws, 1983, ch. 475, § 9; Laws, 1983, ch. 491, § 9; Laws, 1984, ch. 381, § 6; Laws, 1986, ch. 410, § 2, eff from and after July 1, 1986; Laws, 2022, ch. 462, § 18, eff from and after July 1, 2022.

Amendment Notes — The 2022 amendment added (4).

Cross References — Mississippi Flexible Tax Incentive Act, see § 57-114-1 et seq.

§ 27-7-22.3. Credit for employees who pay job assessment fee; credit against state income taxes for authorized companies [Repealed effective October 1, 2025].

HISTORY: Laws, 1993, ch. 565, § 24; Laws, 1994, ch. 525, § 1; Laws, 1997, ch. 576, § 24; reenacted without change, Laws, 2000, ch. 425, § 24; reenacted without change, Laws, 2001, ch. 337, § 24; reenacted without change, Laws, 2005, ch. 399, § 24; reenacted without change, Laws, 2007, ch. 389, § 24; reenacted without change, Laws, 2011, ch. 519, § 24; reenacted without change, Laws, 2015, ch. 398, § 25; reenacted without change, Laws, 2017, ch. 325, § 25, eff from and after July 1, 2017; reenacted without change, Laws, 2022, ch. 381, § 25, eff from and after July 1, 2022.

Editor's Notes — This section was reenacted without change by Laws of 2022, ch. 381, § 25. Since the language of the section as it appears in the main volume is unaffected by the bringing forward of the section, it is not reprinted in this supplement.

Amendment Notes — The 2022 amendment reenacted the section without change.

§ 27-7-22.5. Income tax credit for manufacturers, distributors and wholesale or retail merchants for ad valorem taxes paid on commodities, raw materials, works-in-process, goods, wares and merchandise held for resale; income tax credit for individual, firm or corporation for ad valorem taxes on rental equipment.

(1)(a) For any manufacturer, distributor, wholesale or retail merchant who pays to a county, municipality, school district, levee district or any other taxing authority of the state or a political subdivision thereof, ad valorem taxes imposed on commodities, raw materials, works-in-process, products, goods, wares and merchandise held for resale, a credit against the income

taxes imposed under this chapter shall be allowed for the portion of the ad valorem taxes so paid in the amounts prescribed in subsection (2).

(b)(i) For any person, firm or corporation who pays to a county, municipality, school district, levee district or any other taxing authority of the state or a political subdivision thereof, ad valorem taxes imposed on rental equipment, a credit against the income taxes imposed under this chapter shall be allowed for the portion of the ad valorem taxes so paid in the amounts prescribed in subsection (2).

(ii) As used in this paragraph, "rental equipment" means any rental equipment or other rental items which are held for short-term rental to the public:

1. Under rental agreements with no specific term;
2. Under at-will or open-ended agreements; or
3. Under rental agreements with terms ordinarily of less than three hundred sixty-five (365) days; and
4. Is not subject to privilege taxes imposed in Chapter 19, Title 27, Mississippi Code of 1972.

(c) The tax credit allowed by this section may not be claimed by a taxpayer that is a medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.

(2) The tax credit allowed by this section shall not exceed the amounts set forth in paragraphs (a) through (g) of this subsection; and may be claimed for each location where such commodities, raw material, works-in-process, products, goods, wares, merchandise and/or rental equipment are found and upon which the ad valorem taxes have been paid. Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the tax year in which the credit was earned.

(a) For the 1994 taxable year, the tax credit for each location of the taxpayer shall not exceed the lesser of Two Thousand Dollars ($2,000.00) or the amount of income taxes due the State of Mississippi that are attributable to such location.

(b) For the 1995 taxable year, the tax credit for each location of the taxpayer shall not exceed the lesser of Three Thousand Dollars ($3,000.00) or the amount of income taxes due the State of Mississippi that are attributable to such location.

(c) For the 1996 taxable year, the tax credit for each location of the taxpayer shall not exceed the lesser of Four Thousand Dollars ($4,000.00) or the amount of income taxes due the State of Mississippi that are attributable to such location.

(d) For the 1997 taxable year and each taxable year thereafter through taxable year 2013, the tax credit for each location of the taxpayer shall not exceed the lesser of Five Thousand Dollars ($5,000.00) or the amount of income taxes due the State of Mississippi that are attributable to such location.

(e) For the 2014 taxable year, the tax credit for each location of the taxpayer shall not exceed the lesser of Ten Thousand Dollars ($10,000.00) or

the amount of income taxes due the State of Mississippi that are attributable to such location.

(f) For the 2015 taxable year, the tax credit for each location of the taxpayer shall not exceed the lesser of Fifteen Thousand Dollars ($15,000.00) or the amount of income taxes due the State of Mississippi that are attributable to such location.

(g) For the 2016 taxable year and each taxable year thereafter, the tax credit of the taxpayer shall be the lesser of the amount of the ad valorem taxes described in subsection (1) paid or the amount of income taxes due the State of Mississippi that are attributable to such location.

(3) Any amount of ad valorem taxes paid by a taxpayer that is applied toward the tax credit allowed in this section may not be used as a deduction by the taxpayer for state income tax purposes. In the case of a taxpayer that is a partnership, limited liability company or S corporation, the credit may be applied only to the tax attributable to partnership, limited liability company or S corporation income derived from the taxpayer.

HISTORY: Laws, 1994, ch. 304, § 1; Laws, 1997, ch 372, § 1; Laws, 2012, ch. 523, § 1; Laws, 2014, ch. 530, § 46, eff from and after Jan. 1, 2014; Laws, 2022, ch. 303, § 75, eff from and after passage (approved February 2, 2022).

Amendment Notes — The 2022 amendment, effective February 2, 2022, added (1)(c).

Cross References — Mississippi Medical Cannabis Act, see §§ 41-137-1 et seq.

§ 27-7-22.7. Income tax credit for charges for using certain public port facilities [Repealed effective December 31, 2025].

HISTORY: Laws, 1994, ch. 492, § 1; reenacted and amended, Laws, 1998, ch. 548, § 1; reenacted and amended, Laws, 2002, ch. 537, § 1; reenacted without change, Laws, 2005, ch. 457, § 1; reenacted without change, Laws, 2009, ch. 322, § 1; reenacted without change, Laws 2012, ch. 377, § 1; reenacted and amended, Laws, 2016, ch. 335, § 1, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 321, § 1, eff from and after July 1, 2019; reenacted without change, Laws, 2022, ch. 467, § 1, eff from and after July 1, 2022.

Editor's Notes — Laws of 1994, ch. 492, § 4, as amended by Laws of 1998, ch. 548, § 3, as amended by Laws of 2002, ch. 537, § 3, as amended by Laws of 2005, ch. 457, § 3, as amended by Laws of 2009, ch. 322, § 3, as amended by Laws of 2012, ch. 377, § 3, as amended by Laws of 2016, ch. 335, § 3, as amended by Laws of 2019, ch. 321, § 3, and as amended by Laws of 2022, ch. 467, § 3, provides:

"SECTION 4. This act shall take effect and be in force from and after January 1, 1994, and shall stand repealed from and after December 31, 2025."

This section was reenacted without change by Laws of 2022, ch. 467, § 1, effective from and after July 1, 2022. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2019 amendment reenacted the section without change.

The 2022 amendment reenacted the section without change.

§ 27-7-22.9. Income tax credit for charges for using certain public port facilities; annual report regarding impact of § 27-7-22.7 [Repealed effective December 31, 2025].

HISTORY: Laws, 1994, ch. 492, § 2; reenacted without change, Laws, 1998, ch. 548, § 2; reenacted and amended, Laws, 2002, ch. 537, § 2; reenacted without change, Laws, 2005, ch. 457, § 2; reenacted without change, Laws, 2009, ch. 322; reenacted without change, Laws, 2012, ch. 377, § 2; reenacted and amended, Laws, 2016, ch. 335, § 2, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 321, § 2, eff from and after July 1, 2019; reenacted without change, Laws, 2022, ch. 467, § 2, eff from and after July 1, 2022.

Editor's Notes — Laws of 1994, ch. 492, § 4, as amended by Laws of 1998, ch. 548, § 3, as amended by Laws of 2002, ch. 537, § 3, as amended by Laws of 2005, ch. 457, § 3, as amended by Laws of 2009, ch. 322, § 3, as amended by Laws of 2012, ch. 377, § 3, as amended by Laws of 2016, ch. 335, § 3, as amended by Laws of 2019, ch. 321, § 3, and as amended by Laws of 2022, ch. 467, § 3, provides:

"SECTION 4. This act shall take effect and be in force from and after January 1, 1994, and shall stand repealed from and after December 31, 2025."

This section was reenacted without change by Laws of 2022, ch. 467, § 2, effective from and after July 1, 2022. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2019 amendment reenacted the section without change.

The 2022 amendment reenacted the section without change.

§ 27-7-22.25. Income tax credit for utilization of airport facilities at public airports for export or import of cargo [Repealed effective July 1, 2025].

(1) As used in this section, the term "airport" means an airport established pursuant to Chapters 3 and 5, Title 61, Mississippi Code of 1972.

(2) Subject to the provisions of this section, for any income taxpayer utilizing the facilities at any airport for the export or import of cargo that is unloaded from a carrier at any such airport, a credit against the taxes imposed pursuant to this chapter shall be allowed in the amounts provided in this section. In order to be eligible for the credit authorized under this section, a taxpayer must locate its United States headquarters in Mississippi on or after July 1, 2005, employ at least five (5) new permanent full-time employees who actually work at such headquarters and, after July 1, 2005, invest a minimum of Two Million Dollars ($2,000,000.00), in the aggregate, in real property and/or personal property in Mississippi. For the purposes of this section, "full-time employee" shall mean an employee who works at least thirty-five (35) hours per week.

(3) Except as otherwise provided by subsection (4) of this section, the amount of the credit allowed pursuant to this section shall be the total of the following charges on import or export of cargo paid by the corporation:

(a) Receiving into the airport;

(b) Aircraft marshalling or handling fees; and

(c) Aircraft landing fees.

(4) The credit provided for in this section shall not exceed fifty percent (50%) of the amount of tax imposed upon the taxpayer for the taxable year reduced by the sum of all other credits allowable to such taxpayer under this chapter, except credit for tax payments made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding five (5) years. The maximum cumulative credit that may be claimed by a taxpayer under this section is limited to One Million Dollars ($1,000,000.00) if the taxpayer employs at least five (5), but not more than twenty-five (25) permanent full-time employees at its headquarters in Mississippi; Two Million Dollars ($2,000,000.00) if the taxpayer employs more than twenty-five (25), but not more than one hundred (100) permanent full-time employees at its headquarters in Mississippi; Three Million Dollars ($3,000,000.00) if the taxpayer employs more than one hundred (100), but not more than two hundred (200) permanent full-time employees at its headquarters in Mississippi; and Four Million Dollars ($4,000,000.00) if the taxpayer employs more than two hundred (200) permanent full-time employees at its headquarters in Mississippi.

(5) To obtain the credit provided for in this section, a taxpayer must provide to the Department of Revenue a statement from the governing authority of the airport certifying the amount of charges paid by the taxpayer for which a credit is claimed and any other information required by the Department of Revenue.

(6) Any taxpayer who is eligible, before July 1, 2025, for the credit provided for in this section, shall remain eligible for such credit after July 1, 2025, notwithstanding the repeal of this section.

HISTORY: Laws, 2005, ch. 442, § 1; Laws, 2006, ch. 465, § 1; reenacted and amended, Laws, 2007, ch. 519, § 1; reenacted and amended, Laws, 2009, ch. 323, § 1; reenacted and amended, Laws, 2012, ch. 377, § 4; reenacted and amended, Laws, 2016, ch. 335, § 4, eff from and after July 1, 2016; reenacted and amended, Laws, 2019, ch. 321, § 4, eff from and after July 1, 2019; reenacted and amended, Laws, 2022, ch. 467, § 4, eff from and after July 1, 2022.

Editor's Notes — Laws of 2005, ch. 442, § 3, as amended by Laws of 2007, ch. 519, § 3, as amended by Laws of 2009, ch. 323, § 3, as amended by Laws of 2012, ch. 377, § 6, as amended by Laws of 2016, ch. 335, § 6, as amended by Laws of 2019, ch. 321, § 6, and as amended by Laws of 2022, ch. 467, § 6, provides as follows:

"SECTION 3. Sections 1 [codified as Section 27-7-22.25] and 2 [codified as Section 27-7-22.26] shall stand repealed from and after July 1, 2025."

Amendment Notes — The 2019 amendment reenacted and amended the section by substituting "July 1, 2022" for "July 1, 2019" twice in (6).

The 2022 amendment reenacted and amended the section by substituting "July 1, 2025" for "July 1, 2022" both times it appears in (6).

§ 27-7-22.26. Mississippi Development Authority to report annually on the impact of the income tax credit granted in § 27-7-22.25 [Repealed effective July 1, 2025].

HISTORY: Laws, 2005, ch. 442, § 2; reenacted without change, Laws, 2007, ch.

519, § 2; reenacted without change, Laws, 2009, ch. 323, § 2; reenacted without change, Laws, 2012, ch. 377, § 5; reenacted and amended, Laws, 2016, ch. 335, § 5, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 321, § 5, eff from and after July 1, 2019; reenacted without change, Laws, 2022, ch. 467, § 5, eff from and after July 1, 2022.

Editor's Notes — Laws of 2005, ch. 442, § 3, as amended by Laws of 2007, ch. 519, § 3, as amended by Laws of 2009, ch. 323, § 3, as amended by Laws of 2012, ch. 377, § 6, and as amended by Laws of 2016, ch. 335, § 6, as amended by Laws of 2019, ch. 321, § 6, and as amended by Laws of 2022, ch. 467, § 6, provides as follows:

"SECTION 3. Sections 1 [codified as Section 27-7-22.25] and 2 [codified as Section 27-7-22.26] shall stand repealed from and after July 1, 2025."

This section was reenacted without change by Laws of 2022, ch. 467, § 5, effective from and after July 1, 2022. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2019 amendment reenacted the section without change.

The 2022 amendment reenacted the section without change.

§ 27-7-22.30. Manufacturing investment tax credit for manufacturing enterprises that have operated in Mississippi for not less than two years.

(1) As used in this section:

(a) "Manufacturing enterprise" means an enterprise that:

(i) Falls within the definition of the term "manufacturer" in Section 27-65-11; and

(ii) Has operated in this state for not less than two (2) years prior to application for the credit authorized by this section.

The term "manufacturing enterprise" does not include any medical cannabis establishment as defined in the Mississippi Medical Cannabis Act.

(b) "Eligible investment" means an investment of at least One Million Dollars ($1,000,000.00) in buildings and/or equipment for the manufacturing enterprise.

(2) A manufacturing enterprise is allowed a manufacturing investment tax credit for taxes imposed by Section 27-7-5 equal to five percent (5%) of the eligible investments made by the manufacturing enterprise.

(3) Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) years from the close of the tax year in which the eligible investment was made, but the credit established by this section taken in any one tax year shall not exceed fifty percent (50%) of the taxpayer's state income tax liability which is attributable to income derived from operations in the state for that year reduced by the sum of all other income tax credits allowable to the taxpayer, except credit for tax payments made by or on behalf of the taxpayer.

(4) The maximum credit that may be claimed by a taxpayer on any project shall be limited to One Million Dollars ($1,000,000.00).

(5) The credit received under this section is subject to recapture if the property for which the tax credit was received is disposed of, or converted to, other than business use. The amount of the credit subject to recapture is one

hundred percent (100%) of the credit in the first year and fifty percent (50%) of the credit in the second year. This subsection shall not apply in cases in which an entire facility is sold.

(6) The sale, merger, acquisition, reorganization, bankruptcy or relocation from one (1) county to another county within the state of any manufacturing enterprise may not create new eligibility in any succeeding business entity, but any unused manufacturing investment tax credit may be transferred and continued by any transferee of the enterprise. The department shall determine whether or not qualifying net increases or decreases have occurred or proper transfers of credit have been made and may require reports, promulgate regulations, and hold hearings as needed for substantiation and qualification.

(7) No manufacturing enterprise for the transportation, handling, storage, processing or disposal of hazardous waste is eligible to receive the tax credits provided in this section.

(8) The credits allowed under this section shall not be used by any business enterprise or corporation other than the manufacturing enterprise actually qualifying for the credits.

HISTORY: Laws, 2005, 3rd Ex Sess, ch. 1, § 61, eff from and after July 1, 2005; Laws, 2022, ch. 303, § 76, eff from and after passage (approved February 2, 2022).

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in subsection (1) by moving the undesignated paragraph that begins with "The term" and that was added following paragraph (b) by Section 76 of Chapter 303 to its correct location following paragraph (a). The Joint Committee ratified the correction at its August 10, 2022, meeting.

Amendment Notes — The 2022 amendment, effective February 2, 2022, added the last paragraph of (1)(a); in (6), substituted "The department" for "The State Tax Commission"; and made a minor stylistic change.

Cross References — Mississippi Medical Cannabis Act, see §§ 41-137-1 et seq.

§ 27-7-22.31. Income tax credit for certain costs and expenses in rehabilitating eligible property certified as a historic structure or structure in a certified historic district; recapture of credit; applicability of section.

(1) As used in this section:

(a) "Certified historic structure" means a property located in Mississippi that has been:

(i) Listed individually on the National Register of Historic Places; or

(ii) Determined eligible for the National Register of Historic Places by the Secretary of the United States Department of the Interior and will be listed within thirty (30) months of claiming the rebate or credit authorized by this section; or

(iii) Property designated a Mississippi Landmark by the Department of Archives and History pursuant to Section 39-7-3 et seq.

(b) "Eligible property" means property located in Mississippi and offered or used for residential or business purposes.

(c) "Structure in a certified historic district" means a structure (and its structural components) located in Mississippi which:

(i) Is listed in the National Register of Historic Places; or

(ii) Has been determined eligible for the National Register of Historic Places by the Secretary of the United States Department of the Interior and will be listed within thirty (30) months of claiming the rebate or credit authorized by this section; or

(iii) Is located in a registered historic district listed on the National Register of Historic Places or located in a potential district that has been determined eligible for the National Register of Historic Places by the Secretary of the United States Department of the Interior and will be listed within thirty (30) months of claiming the rebate or credit authorized by this section, and is certified by the Secretary of the United States Department of the Interior as being of historic significance to the district; or

(iv) Is certified by the Mississippi Department of Archives and History as contributing to the historic significance of:

1. A certified historic district listed on the National Register of Historic Places; or

2. A potential district that has been determined eligible for the National Register of Historic Places by the Secretary of the United States Department of the Interior and will be listed within thirty (30) months of claiming the rebate or credit authorized by this section; or

3. A local district that has been certified by the United States Department of the Interior.

(d) "Department" means the Department of Archives and History.

(2) Any taxpayer incurring costs and expenses for the rehabilitation of eligible property, which is a certified historic structure or a structure in a certified historic district, shall be entitled to a rebate or credit against the taxes imposed pursuant to this chapter in an amount equal to twenty-five percent (25%) of the total costs and expenses of rehabilitation incurred after January 1, 2006, which shall include, but not be limited to, qualified rehabilitation expenditures as defined under Section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and the related regulations thereunder:

(a) If the costs and expenses associated with rehabilitation exceed:

(i) Five Thousand Dollars ($5,000.00) in the case of an owner-occupied dwelling; or

(ii) Fifty percent (50%) of the adjusted basis in the property in the case of all other properties; and

(b) The rehabilitation is consistent with the standards of the Secretary of the United States Department of the Interior as determined by the department.

(3) Any taxpayer eligible for the rebate or credit authorized by this section may claim the rebate or credit in phases if:

(a) There is a written set of architectural plans and specifications for all phases of the rehabilitation (written plans outlining and describing all

phases of the rehabilitation shall be accepted as written plans and specifications);

(b) The written set of architectural plans and specifications are completed before the physical work on the rehabilitation begins; and

(c) The project receives final certification by the department within sixty (60) months of the project start date certified in the first phase.

(4)(a)(i) If the amount of the tax credit established by this section exceeds the total state income tax liability for the credit year, the amount that exceeds the total state income tax liability may be carried forward for the ten (10) succeeding tax years.

(ii) In lieu of claiming a tax credit, the taxpayer may elect to claim a rebate in the amount of seventy-five percent (75%) of the amount that would be eligible to claim as a credit. The election must be made in the year in which the rebate is certified.

(iii) Rebate requests shall be submitted to the department on forms prescribed by the department. The department will then provide the taxpayer with a voucher for the approved amount. Within twelve (12) months of the issuance of the voucher by the department, the taxpayer may submit the voucher to the Department of Revenue to receive payment. Rebates shall be made from current tax collections.

(b) Not-for-profit entities, including, but not limited to, nonprofit corporations organized under Section 79-11-101 et seq., shall be ineligible for the rebate or credit authorized by this section. Credits granted to a partnership, a limited liability company taxed as a partnership or multiple owners of property shall be passed through to the partners, members or owners on a pro rata basis or pursuant to an executed agreement among the partners, members or owners documenting an alternative distribution method. Partners, members or other owners of a pass-through entity are not eligible to elect a refund of excess credit in lieu of a carryforward of the credit. However, a partnership or limited liability company taxed as a partnership may elect to claim a rebate at the entity level on a form prescribed by the department. Additionally, excess tax credits that are attributable to rehabilitated property that was placed in service by a pass-through entity prior to January 1, 2011, and that have previously been allocated to and are held by another pass-through entity prior to January 1, 2011, may be refunded to such other pass-through entity.

(5)(a)(i) To claim the rebate or credit authorized pursuant to this section, the taxpayer shall apply to the department which shall determine the amount of eligible rehabilitation costs and expenses and whether the rehabilitation is consistent with the standards of the Secretary of the United States Department of the Interior. The department shall issue a certificate evidencing the date of the rebate or credit and amount of eligible rebate or credit if the taxpayer is found to be eligible for the tax rebate or credit. The taxpayer shall attach the certificate to all income tax returns on which the credit is claimed. Except as otherwise provided in this paragraph (a), the department shall not issue certificates evidencing

the eligible rebate or credit which will result in rebates or credits being awarded in excess of Twelve Million Dollars ($12,000,000.00) in any one (1) calendar year for projects with total qualified rehabilitation costs and expenses of One Million Seven Hundred Fifty Thousand Dollars ($1,750,000.00) or more. The department shall also not issue certificates evidencing the eligible rebate or credit which will result in rebates or credits being awarded in excess of Twelve Million Dollars ($12,000,000.00) in any one (1) calendar year for projects with total qualified rehabilitation costs and expenses of less than One Million Seven Hundred Fifty Thousand Dollars ($1,750,000.00).

(ii) If claiming a credit instead of a rebate, the taxpayer shall claim such credit on the income tax return for the tax year for which the credit is certified.

(b) The date of the rebate or credit shall be certified in the following order:

(i) The rebate or credit shall be certified based on the date of project completion.

(ii) If the eligible rebate or credit exceeds the available limit in the year in which the project is completed, the rebate or credit shall be certified based on the date the certification is issued by the department. The department shall issue the certification in the first calendar year in which the requested rebate or credit would not exceed the calendar year limit.

(c) The aggregate amount of tax rebates or credits that may be awarded under this section shall not exceed One Hundred Eighty Million Dollars ($180,000,000.00).

(6)(a) The rebate or credit received by a taxpayer pursuant to this section is subject to recapture if:

(i) The property is one that has been determined eligible for the National Register of Historic Places but is not listed on the National Register of Historic Places within thirty (30) months of claiming the rebate or credit authorized by this section;

(ii) The potential district in which the property is located is not listed on the National Register of Historic Places within thirty (30) months of claiming the rebate or credit authorized by this section; or

(iii) The project has not received final certification by the department within sixty (60) months of the project start date certified in the first phase.

(b) The taxpayer shall notify the department and the Department of Revenue if any of the situations that subject the credit to recapture occur.

(7)(a) The board of trustees of the department shall establish fees to be charged for the services performed by the department under this section and shall publish the fee schedule. The fees contained in the schedule shall be in amounts reasonably calculated to recover the costs incurred by the department for the administration of this section. Any taxpayer desiring to participate in the tax credits authorized by this section shall pay the

appropriate fee as contained in the fee schedule to the department, which shall be used by the department, without appropriation, to offset the administrative costs of the department associated with its duties under this section.

(b) There is hereby created within the State Treasury a special fund into which shall be deposited all the fees collected by the department pursuant to this section. Money deposited into the fund shall not lapse at the end of any fiscal year and investment earnings on the proceeds in such special fund shall be deposited into such fund. Money from the fund shall be disbursed upon warrants issued by the State Fiscal Officer upon requisitions signed by the executive director of the department to assist the department in carrying out its duties under this section.

(8) This section shall only apply to taxpayers:

(a) Who have been issued a certificate evidencing the eligible credit before December 31, 2030; or

(b) Who, before December 31, 2030, have received a determination in writing from the Mississippi Department of Archives and History, in accordance with the department's Historic Preservation Certificate Application, Part 2, that the rehabilitation is consistent with the historic character of the property and that the property meets the United States Secretary of the Interior's Standards for Rehabilitation, or will meet the standards if certain specified conditions are met, and, who are issued a certificate evidencing the eligible credit on or after December 31, 2030.

HISTORY: Laws, 2006, ch. 420, § 1; Laws, 2011, ch. 302, § 1; Laws, 2011, ch. 477, § 1; Laws, 2013, ch. 504, § 1; Laws, 2014, ch. 530, § 38; Laws, 2016, ch. 483, § 1, eff from and after July 1, 2016; Laws, 2020, ch. 453, § 1, eff from and after July 1, 2020; Laws, 2021, ch. 467, § 1, eff from and after January 1, 2021.

Amendment Notes — The 2020 amendment, in (4)(a)(ii), deleted "If the amount of the tax credit established by this section exceeds Two Hundred Fifty Thousand Dollars ($250,000.00)" from the beginning of the first sentence and made a related change; in the introductory paragraph of (5)(b), substituted "One Hundred Eighty Million Dollars ($180,000,000.00)" for "One Hundred Twenty Million Dollars ($120,000,000.00) and not more than Twelve Million Dollars ($12,000,000.00) may be awarded in any one (1) state fiscal year" in the first sentence and "July 1, 2020" for "July 1, 2016" twice in the last sentence; in (5)(b)(ii), substituted "July 1, 2020" for "July 1, 2016"; in (8), substituted "December 31, 2030" for "December 31, 2020" everywhere it appears; and corrected a minor grammatical error.

The 2021 amendment, effective January 1, 2021, inserted "rebate or" everywhere it appears in (1), (2), (3), (4)(b), and (6); in (1)(b), deleted "however, the term 'eligible property' shall not include a single-family dwelling unless," and deleted (i) and (ii), which related to a certificate evidencing the eligible credit and designation of the dwelling as National Historic Landmark; in (2)(a)(ii), substituted "adjusted basis" for "total basis"; rewrote (3)(c), which read: "It can reasonably be expected that all phases of the rehabilitation will be completed"; in (4), in (a)(i), inserted "credit" preceding "year" and deleted "in which the rehabilitated property is placed in service" thereafter, rewrote (a)(ii), which read: "The taxpayer may elect to claim a refund in the amount of seventy-five percent (75%) of the excess credit in lieu of the ten-year carryforward. The election must be made in the year in which the rehabilitated property is placed in service. Refunds will be paid in equal installments over a two-year period and shall be

made from current collections," in (a)(iii), in the first sentence, substituted "Rebate" for "Refund" and deleted "of Revenue" following "department," and added the second and third sentences, in (b), in the next-to-last sentence, substituted "claim a rebate" for "claim a refund of excess credit" and deleted "of Revenue" at the end; in (5)(a)(i), inserted "rebate or" in the first, second (last two times it appears), and fourth sentences, and "rebates or" in the fourth sentence, in the second sentence, inserted "date of the rebate or credit and amount of," in the fourth sentence, added "Except as otherwise provided in this paragraph (a)," deleted "when combined with certificates of eligible credits issued prior to July 1, 2016" preceding "will result in rebates," substituted "calendar year" for "state fiscal year," and added "for projects with total...($1,750,000.00) or more," and added the last sentence; added (5)(a)(ii) and (b); redesignated former (5)(b) as (5)(c), and therein deleted the former last sentence and (i) and (ii), which related to a taxpayer who was issued a certificate evidencing the eligible credit but was unable to be awarded the credit; and rewrote (6)(a)(iii), which read: "The rehabilitation of the property for which the credit was granted is abandoned."

§ 27-7-22.32. Income tax credit for certain qualified adoption expenses.

[Through December 31, 2023, this section shall read as follows:]

(1)(a) There shall be allowed as a credit against the tax imposed by this chapter the amount of the qualified adoption expenses paid or incurred, not to exceed Two Thousand Five Hundred Dollars ($2,500.00), for each dependent child legally adopted by a taxpayer under the laws of this state during calendar year 2006 or during any calendar year thereafter through calendar year 2017, and not to exceed Five Thousand Dollars ($5,000.00) for each dependent child legally adopted by a taxpayer under the laws of this state during any calendar year thereafter. A taxpayer claiming a credit under this paragraph (a) may not claim a credit under paragraph (b) of this subsection for the adoption of the same child.

(b) There shall be allowed as a credit against the tax imposed by this chapter the amount of Five Thousand Dollars ($5,000.00) for each dependent child legally adopted by a taxpayer under the laws of this state through the Mississippi Department of Child Protection Services during calendar year 2018 or during any calendar year thereafter. A taxpayer claiming a credit under this paragraph (b) may not claim a credit under paragraph (a) of this subsection for the adoption of the same child.

(2) The tax credit under this section may be claimed for the taxable year in which the adoption becomes final under the laws of this state. Any tax credit claimed under this section but not used in any taxable year may be carried forward for the five (5) succeeding tax years. A tax credit is allowed under this section for any child for which an exemption is claimed during the same taxable year under Section 27-7-21(e). For the purposes of this section, the term "qualified adoption expenses" means and has the same definition as that term has in 26 USCS 36C.

[Effective from and after January 1, 2024, this section shall read as follows:]

There shall be allowed as a credit against the tax imposed by this chapter

the amount of the qualified adoption expenses paid or incurred, not to exceed Two Thousand Five Hundred Dollars ($2,500.00), for each dependent child legally adopted by a taxpayer under the laws of this state during calendar year 2006 or during any calendar year thereafter. The tax credit under this section may be claimed for the taxable year in which the adoption becomes final under the laws of this state. Any tax credit claimed under this section but not used in any taxable year may be carried forward for the three (3) succeeding tax years. A tax credit is allowed under this section for any child for which an exemption is claimed during the same taxable year under Section 27-7-21(e). For the purposes of this section, the term "qualified adoption expenses" means and has the same definition as that term has in 26 USCS 36C.

HISTORY: Laws, 2006, ch. 518, § 1; Laws, 2013, ch. 449, § 1, eff from and after Jan. 1, 2013; Laws, 2018, ch. 437, § 2, eff from and after January 1, 2018, eff from and after January 1, 2018; Laws, 2018, ch. 437, § 2, eff from and after January 1, 2020; Laws, 2019, ch. 484, § 4, eff from and after January 1, 2019; Laws, 2020, ch. 453, § 4, eff from and July 1, 2020.

Editor's Notes — Laws of 2018, ch. 437, §§ 3 and 4, effective January 1, 2018, provide:

"SECTION 4. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Laws of 2019, ch. 484, § 1, effective January 1, 2019, provides as follows:

"SECTION 1. This act shall be known and may be cited as the Children's Promise Act."

Laws of 2019, ch. 484, § 6, effective January 1, 2019, provides as follows:

"SECTION 6. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws or insurance premium tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws and insurance premium tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Laws of 2020, ch. 453, §§ 8 and 9, provide:

"SECTION 8. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws.

"SECTION 9. Sections 2 and 3 of this act shall take effect and be in force from and after January 1, 2020, and the remaining sections of this act shall take effect and be in force from and after July 1, 2020."

Amendment Notes — The 2018 amendment, effective January 1, 2018, in the first version, substituted "December 31, 2019" for "December 31, 2018" in the bracketed effective date language, divided the formerly undesignated section into (1) and (2) by designating the former first sentence of the section as the first sentence of (1)(a) and designating the remaining sentences in the former section as (2), in (1)(a), added "through calendar year 2017...this state during any calendar year thereafter" to the end of the first sentence, and added the last sentence, added (1)(b), and substituted "five (5) succeeding tax years" for "three (3) succeeding tax years" in (2); and in the second version, substituted "January 1, 2020" for "January 1, 2019" in the bracketed effective date language.

The 2019 amendment, effective January 1, 2019, substituted "December 31, 2020" for "December 31, 2019" in the bracketed language preceding the first version; and substituted "January 1, 2021" for "January 1, 2020" in the bracketed language preceding the second version.

The 2020 amendment, in the first version of the section, substituted "December 31, 2023" for "December 31, 2020" in the bracketed effective date language preceding the version; and in the second version of the section, substituted "January 1, 2024" for "January 1, 2021" in the bracketed effective date language preceding the version.

§ 27-7-22.36. Job tax credit for enterprises owning or operating an upholstered household furniture manufacturing facility for each full-time employee employed in new cut and sew job [Repealed effective January 1, 2026].

(1) As used in this section:

(a) "Full-time employee" means an employee who works at least thirty-five (35) hours per week.

(b) "New cut and sew job" means a job in which the employee cuts and sews upholstery for upholstered household furniture and which job did not exist in this state before January 1, 2010.

(2) Any enterprise owning or operating an upholstered household furniture manufacturing facility is allowed a job tax credit for taxes imposed by this chapter equal to Two Thousand Dollars ($2,000.00) annually for each full-time employee employed in a new cut and sew job for a period of five (5) years from the date the credit commences. The credit shall commence on the date selected by the enterprise. For the year in which the commencement date occurs, the credit will be determined based on the monthly average number of full-time employees employed in new cut and sew jobs subject to the Mississippi income tax withholding who are employed by the enterprise. For each year thereafter, the number of new cut and sew jobs shall be determined by comparing the monthly average number of full-time employees employed in new cut and sew jobs subject to the Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. The Department of Revenue shall verify that the jobs claimed by enterprises to obtain the credit meet the definition of the term "new cut and sew job." The Department of Revenue shall adjust the credit allowed each year for employment fluctuations.

(3) The credit that may be used each year shall be limited to an amount not greater than the total state income tax liability of the enterprise. Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the tax year in which the credits were earned.

(4) The tax credits provided for in this section shall be in lieu of the tax credits provided for in Section 57-73-21 and any enterprise using the tax credit authorized in this section shall not use the tax credit authorized in Section 57-73-21.

(5) Any taxpayer who is eligible for the credit authorized in this section prior to January 1, 2026, shall be eligible for the credit authorized in this section, notwithstanding the repeal of this section, and shall be allowed to carry forward the credit after January 1, 2026, as provided for in subsection (3) of this section.

(6) This section shall be repealed from and after January 1, 2026.

HISTORY: Laws, 2010, ch. 432, § 1; Laws, 2012, ch. 378, § 1; Laws, 2016, ch. 378, § 1, eff from and after Jan. 1, 2016; Laws, 2019, ch. 334, § 1, eff from and after January 1, 2019; Laws, 2021, ch. 436, § 1, eff from and after July 1, 2021.

Amendment Notes — The 2019 amendment, effective January 1, 2019, substituted "January 1, 2022" for "January 1, 2019" both times it appears in (5); and extended the date of the repealer for the section by substituting "January 1, 2022" for "January 1, 2019" in (6).

The 2021 amendment, in (5), substituted "January 1, 2026" for "January 1, 2022" both times it appears; extended the date of the repealer for the section by substituting "January 1, 2026" for "January 1, 2022" in (6); and made minor stylistic changes.

§ 27-7-22.38. Repealed.

Repealed by its own terms, effective January 1, 2018.

§ 27-7-22.38. [Laws, 2015, ch. 449, § 1, eff from and after Jan. 1, 2016.]

Editor's Notes — Former § 27-7-22.38 provided an income tax credit for taxpayers employing certain honorably discharged veterans.

§ 27-7-22.39. Income tax credit for voluntary cash contributions to qualifying charitable organizations; separate income tax credit for voluntary cash contributions to qualifying foster care charitable organizations [Repealed effective January 1, 2025].

(1) As used in this section:

(a) "Low-income residents" means persons whose household income is less than one hundred fifty percent (150%) of the federal poverty level.

(b) "Qualifying charitable organization" means a charitable organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code or is a designated community action agency that receives community services block grant program monies pursuant to 42

USC 9901. The organization must spend at least fifty percent (50%) of its budget on services to residents of this state who receive temporary assistance for needy families benefits or low-income residents of this state and their households or to children who have a chronic illness or physical, intellectual, developmental or emotional disability who are residents of this state. A charitable organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and that meets all other requirements of this paragraph except that it does not spend at least fifty percent (50%) of its overall budget in Mississippi may be a qualifying charitable organization if it spends at least fifty percent (50%) of its Mississippi budget on services to qualified individuals in Mississippi and it certifies to the department that one hundred percent (100%) of the voluntary cash contributions from the taxpayer will be spent on services to qualified individuals in Mississippi. Taxpayers choosing to make donations through an umbrella charitable organization that collects donations on behalf of member charities shall designate that the donation be directed to a member charitable organization that would qualify under this section on a stand-alone basis. Qualifying charitable organization does not include any entity that provides, pays for or provides coverage of abortions or that financially supports any other entity that provides, pays for or provides coverage of abortions.

(c) "Qualifying foster care charitable organization" means a qualifying charitable organization that each operating year provides services to at least one hundred (100) qualified individuals in this state and spends at least fifty percent (50%) of its budget on services to qualified individuals in this state. A charitable organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and that meets all other requirements of this paragraph except that it does not spend at least fifty percent (50%) of its overall budget in Mississippi may be a qualifying foster care charitable organization if it spends at least fifty percent (50%) of its Mississippi budget on services to qualified individuals in Mississippi and it certifies to the department that one hundred percent (100%) of the voluntary cash contributions from the taxpayer will be spent on services to qualified individuals in Mississippi. For the purposes of this paragraph, "qualified individual" means a child in a foster care placement program established by the Department of Child Protection Services, a child placed under the Safe Families for Children model, or a child at significant risk of entering a foster care placement program established by the Department of Child Protection Services.

(d) "Services" means:

(i) Cash assistance, medical care, child care, food, clothing, shelter, and job-placement services or any other assistance that is reasonably necessary to meet immediate basic needs and that is provided and used in this state;

(ii) Job-training or education services or funding for parents, foster parents or guardians; or

(iii) Job-training or education services or funding provided as part of a foster care independent living program.

(2) Except as provided in subsections (3) and (4) of this section, a credit is allowed against the taxes imposed by this chapter for voluntary cash contributions by the taxpayer during the taxable year to a qualifying charitable organization, other than a qualifying foster care charitable organization, not to exceed:

(a) The lesser of Four Hundred Dollars ($400.00) or the amount of the contribution in any taxable year for a single individual or a head of household.

(b) The lesser of Eight Hundred Dollars ($800.00) or the amount of the contribution in any taxable year for a married couple filing a joint return.

(3) A separate credit is allowed against the taxes imposed by this chapter for voluntary cash contributions during the taxable year to a qualifying foster care charitable organization. A contribution to a qualifying foster care charitable organization does not qualify for, and shall not be included in, any credit amount under subsection (2) of this section. If the voluntary cash contribution by the taxpayer is to a qualifying foster care charitable organization, the credit shall not exceed:

(a) The lesser of Five Hundred Dollars ($500.00) or the amount of the contribution in any taxable year for a single individual or a head of household.

(b) The lesser of One Thousand Dollars ($1,000.00) or the amount of the contribution in any taxable year for a married couple filing a joint return.

(4) Subsections (2) and (3) of this section provide separate credits against taxes imposed by this chapter depending on the recipients of the contributions. A taxpayer, including a married couple filing a joint return, in the same taxable year, may either or both:

(a) Contribute to a qualifying charitable organization, other than a qualifying foster care charitable organization, and claim a credit under subsection (2) of this section.

(b) Contribute to a qualifying foster care charitable organization and claim a credit under subsection (3) of this section.

(5) A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half (1/2) of the tax credit that would have been allowed for a joint return.

(6) If the allowable tax credit exceeds the taxes otherwise due under this chapter on the claimant's income, or if there are no taxes due under this chapter, the taxpayer may carry forward the amount of the claim not used to offset the taxes under this chapter for not more than five (5) consecutive taxable years' income tax liability.

(7) The credit allowed by this section is in lieu of a deduction pursuant to Section 170 of the Internal Revenue Code and taken for state tax purposes.

(8) Taxpayers taking a credit authorized by this section shall provide the name of the qualifying charitable organization and the amount of the contribution to the department on forms provided by the department.

(9) A qualifying charitable organization shall provide the department with a written certification that it meets all criteria to be considered a qualifying charitable organization. The organization shall also notify the department of any changes that may affect the qualifications under this section.

(10) The charitable organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification shall include the following:

(a) Verification of the organization's status under Section 501(c)(3) of the Internal Revenue Code or verification that the organization is a designated community action agency that receives community services block grant program monies pursuant to 42 USC 9901.

(b) Financial data indicating the organization's budget for the organization's prior operating year and the amount of that budget spent on services to residents of this state who either:

(i) Receive temporary assistance for needy families benefits;

(ii) Are low-income residents of this state;

(iii) Are children who have a chronic illness or physical, intellectual, developmental or emotional disability; or

(iv) Are children in a foster care placement program established by the Department of Child Protection Services, children placed under the Safe Families for Children model or children at significant risk of entering a foster care placement program established by the Department of Child Protection Services.

(c) A statement that the organization plans to continue spending at least fifty percent (50%) of its budget on services to residents of this state who receive temporary assistance for needy families benefits, who are low-income residents of this state, who are children who have a chronic illness or physical, intellectual, developmental or emotional disability or who are children in a foster care placement program established by the Department of Child Protection Services, children placed under the Safe Families for Children model or children at significant risk of entering a foster care placement program established by the Department of Child Protection Services. A charitable organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and that meets all other requirements for a qualifying charitable organization or qualifying foster care charitable organization except that it does not spend at least fifty percent (50%) of its overall budget in Mississippi shall submit a statement that it spends at least fifty percent (50%) of its Mississippi budget on services to qualified individuals in Mississippi and that one hundred percent (100%) of the voluntary cash contributions it receives from Mississippi taxpayers will be spent on services to qualified individuals in Mississippi.

(d) In the case of a foster care charitable organization, a statement that each operating year it provides services to at least one hundred (100) qualified individuals in this state.

(e) A statement that the organization does not provide, pay for or

provide coverage of abortions and does not financially support any other entity that provides, pays for or provides coverage of abortions.

(f) Any other information that the department requires to administer this section.

(11) The department shall review each written certification and determine whether the organization meets all the criteria to be considered a qualifying charitable organization and notify the organization of its determination. The department may also periodically request recertification from the organization. The department shall compile and make available to the public a list of the qualifying charitable organizations.

(12) The aggregate amount of tax credits that may be awarded under this section in any calendar year shall not exceed Three Million Dollars ($3,000,000.00). However, for calendar year 2021, and for each calendar year thereafter, the aggregate amount of tax credits that may be awarded under this section in any calendar year shall not exceed One Million Dollars ($1,000,000.00). In addition, any tax credits not awarded under this section before June 1, 2020, may be allocated during calendar year 2020 under Section 27-7-22.41 for contributions by taxpayers to eligible charitable organizations described in Section 27-7-22.41(1)(b)(ii) as provided under such section, notwithstanding any limitation on the percentage of tax credits that may be allocated for such contributions.

(13) A taxpayer shall apply for credits with the department on forms prescribed by the department. In the application the taxpayer shall certify to the department the dollar amount of the contributions made or to be made during the calendar year. Within thirty (30) days after the receipt of an application, the department shall allocate credits based on the dollar amount of contributions as certified in the application. However, if the department cannot allocate the full amount of credits certified in the application due to the limit on the aggregate amount of credits that may be awarded under this section in a calendar year, the department shall so notify the applicant within thirty (30) days with the amount of credits, if any, that may be allocated to the applicant in the calendar year. Once the department has allocated credits to a taxpayer, if the contribution for which a credit is allocated has not been made as of the date of the allocation, then the contribution must be made not later than sixty (60) days from the date of the allocation. If the contribution is not made within such time period, the allocation shall be cancelled and returned to the department for reallocation. Upon final documentation of the contributions, if the actual dollar amount of the contributions is lower than the amount estimated, the department shall adjust the tax credit allowed under this section.

(14) This section shall be repealed from and after January 1, 2025.

HISTORY: Laws, 2018, ch. 437, § 1, eff from and after January 1, 2018; enacted by Laws, 2019, ch. 484, § 3, eff from and after January 1, 2019; Laws, 2020, ch. 453, § 3, eff from and after January 1, 2020.

Editor's Notes — Laws of 2018, ch. 437, §§ 3 and 4, effective January 1, 2018, provides:

"SECTION 3. Section 1 of this act shall be codified as a new section in Chapter 7, Title 27, Mississippi Code of 1972.

"SECTION 4. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Laws of 2019, ch. 484, § 1, effective January 1, 2019, provides as follows:

"SECTION 1. This act shall be known and may be cited as the Children's Promise Act."

Laws of 2019, ch. 484, § 6, effective January 1, 2019, provides as follows:

"SECTION 6. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws or insurance premium tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws and insurance premium tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Laws of 2020, ch. 453, §§ 8 and 9, provide:

"SECTION 8. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws.

"SECTION 9. Sections 2 and 3 of this act shall take effect and be in force from and after January 1, 2020, and the remaining sections of this act shall take effect and be in force from and after July 1, 2020."

Amendment Notes — The 2019 amendment, effective January 1, 2019, substituted "qualified individuals in Mississippi" for "Mississippi residents" in the third sentence of (1)(b), the second sentence of (1)(c), and the last sentence of (10)(c); in (1)(d), deleted "and job-training" following "job-placement" and made related changes in (i) and added (ii) and (iii); in (10), inserted "children placed under the Safe Families for Children model or children at significant risk of entering a foster care placement program established by the Department of Child Protection Services" in (b)(iv) and (c); substituted "Three Million Dollars ($3,000,000.00)" for "One Million Dollars ($1,000,000.00)" in (12); added (13); redesignated former (13) as (14), and therein, extended the date of the repealer for the section by substituting "January 1, 2021" for "January 1, 2020."

The 2020 amendment, effective January 1, 2020, in (1)(b)(ii)3, added "or selected for...U.S. Department of Education"; in (8), added (b); in (9), added the last four sentences; and deleted former (10), which read: "The department shall not allocate any credits under this section after January 1, 2025."

Federal Aspects — Community Support for School Success, see 20 USCS 7271 et seq.

§ 27-7-22.40. Job tax credit for certain full-time jobs created in Mississippi by water transportation enterprises [Repealed effective January 1, 2026].

(1) The following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates:

(a) "Water transportation enterprise" means an enterprise or establishment primarily engaged in providing inland water transportation of cargo on lakes, rivers and/or intracoastal waterways, except on the Great Lakes System.

(b) "Mississippi full-time job" means a job created in the State of Mississippi on or after January 1, 2019, and filled by a Mississippi resident who works at least thirty-five (35) hours per week.

(2) Subject to the provisions of this section, any water transportation enterprise is allowed a job tax credit for taxes imposed by this chapter equal to Two Thousand Dollars ($2,000.00) annually for each Mississippi full-time job created for a period of five (5) years from the date the credit commences. A water transportation enterprise may not claim a tax credit for the reemployment of a person whose employment with the enterprise is terminated by the enterprise if the reemployment by the enterprise occurs within twelve (12) months from the date of the termination. The credit shall commence on the date selected by the enterprise. For the year in which the commencement date occurs, the credit will be determined based on the monthly average number of full-time employees employed by the water transportation enterprise in Mississippi full-time jobs subject to the Mississippi income tax withholding. For each year thereafter, the number of Mississippi full-time jobs shall be determined by comparing the monthly average number of full-time employees employed at the water transportation enterprise in Mississippi full-time jobs subject to the Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. The Department of Revenue shall adjust the credit allowed each year for employment fluctuations.

(3) The credit that may be used each year shall be limited to an amount not greater than the total state income tax liability of the water transportation enterprise. Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the tax year in which the credits were earned.

(4) The sale, merger, acquisition, reorganization, bankruptcy or relocation from one (1) county to another county within the state of any water transportation enterprise may not create new eligibility in any succeeding business entity, but any unused job tax credit may be transferred and continued by any transferee of the water transportation enterprise. The Department of Revenue shall determine whether or not qualifying net increases or decreases have occurred or proper transfers of credit have been made and may require reports, promulgate regulations, and hold hearings as needed for substantiation and qualification.

(5) The credits allowed under this section shall not be used by any

business enterprise or corporation other than the water transportation enterprise actually qualifying for the credits.

(6) The maximum aggregate amount of tax credits that may be claimed by all taxpayers claiming a credit under this section in a taxable year shall not exceed Two Million Dollars ($2,000,000.00).

(7) Any water transportation enterprise that is eligible for the credit authorized in this section before January 1, 2026, shall be eligible for the credit authorized in this section, notwithstanding the repeal of this section, and shall be allowed to carry forward the credit after January 1, 2026, as provided for in subsection (3) of this section.

(8) This section shall be repealed from and after January 1, 2026.

HISTORY: Laws, 2019, ch. 419, § 1, eff from and after January 1, 2019; Laws, 2022, ch. 475, § 1, eff from and after July 1, 2022.

Editor's Notes — Laws of 2019, ch. 419, § 2, effective January 1, 2019, provides: "SECTION 2. Section 1 of this act shall be codified as a new section in Chapter 7, Title 27, Mississippi Code of 1972."

Amendment Notes — The 2022 amendment, in (4), deleted the paragraph designator (a); in (7), substituted "January 1, 2026" for "January 1, 2023" both times it appears; and extended the date of the repealer for the section by substituting "January 1, 2026" for "January 1, 2023" in (8).

§ 27-7-22.41. Tax credit for certain business enterprises making voluntary cash contributions to eligible charitable organizations.

[Effective until January 1, 2023, this section will read as follows:]

(1) For the purposes of this section, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Department" means the Department of Revenue.

(b) "Eligible charitable organization" means an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and is:

(i) Licensed by or under contract with the Mississippi Department of Child Protection Services and provides services for:

1. The prevention and diversion of children from custody with the Department of Child Protection Services,

2. The safety, care and well-being of children in custody with the Department of Child Protection Services, or

3. The express purpose of creating permanency for children through adoption; or

(ii) Certified by the department as an educational services charitable organization and provides services to:

1. Children in a foster care placement program established by the Department of Child Protection Services, children placed under the Safe Families for Children model, or children at significant risk of entering a

foster care placement program established by the Department of Child Protection Services,

2. Children who have a chronic illness or physical, intellectual, developmental or emotional disability, or

3. Children eligible for free or reduced price meals programs under Section 37-11-7, or selected for participation in the Promise Neighborhoods Program sponsored by the U.S. Department of Education.

(2)(a) The tax credit authorized in this section shall be available only to a taxpayer who is a business enterprise engaged in commercial, industrial or professional activities and operating as a corporation, limited liability company, partnership or sole proprietorship. Except as otherwise provided in this section, a credit is allowed against the taxes imposed by Sections 27-7-5, 27-15-103, 27-15-109 and 27-15-123, for voluntary cash contributions made by a taxpayer during the taxable year to an eligible charitable organization. From and after January 1, 2022, for a taxpayer that is not operating as a corporation, a credit is also allowed against ad valorem taxes assessed and levied on real property for voluntary cash contributions made by the taxpayer during the taxable year to an eligible charitable organization. The amount of credit that may be utilized by a taxpayer in a taxable year shall be limited to (i) an amount not to exceed fifty percent (50%) of the total tax liability of the taxpayer for the taxes imposed by such sections of law and (ii) an amount not to exceed fifty percent (50%) of the total tax liability of the taxpayer for ad valorem taxes assessed and levied on real property. Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the tax year in which the credits were earned.

(b) A contribution to an eligible charitable organization for which a credit is claimed under this section does not qualify for and shall not be included in any credit that may be claimed under Section 27-7-22.39.

(c) A contribution for which a credit is claimed under this section may not be used as a deduction by the taxpayer for state income tax purposes.

(3) Taxpayers taking a credit authorized by this section shall provide the name of the eligible charitable organization and the amount of the contribution to the department on forms provided by the department.

(4) An eligible charitable organization shall provide the department with a written certification that it meets all criteria to be considered an eligible charitable organization. An eligible charitable organization must also provide the department with written documented proof of its license and/or written contract with the Mississippi Department of Child Protection Services. The organization shall also notify the department of any changes that may affect eligibility under this section.

(5) The eligible charitable organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification shall include the following:

(a) Verification of the organization's status under Section 501(c)(3) of the Internal Revenue Code;

(b) A statement that the organization does not provide, pay for or provide coverage of abortions and does not financially support any other entity that provides, pays for or provides coverage of abortions;

(c) Any other information that the department requires to administer this section.

(6) The department shall review each written certification and determine whether the organization meets all the criteria to be considered an eligible charitable organization and notify the organization of its determination. The department may also periodically request recertification from the organization. The department shall compile and make available to the public a list of eligible charitable organizations.

(7) Tax credits authorized by this section that are earned by a partnership, limited liability company, S corporation or other similar pass-through entity, shall be allocated among all partners, members or shareholders, respectively, either in proportion to their ownership interest in such entity or as the partners, members or shareholders mutually agree as provided in an executed document.

(8)(a) A taxpayer shall apply for credits with the department on forms prescribed by the department. In the application the taxpayer shall certify to the department the dollar amount of the contributions made or to be made during the calendar year. Within thirty (30) days after the receipt of an application, the department shall allocate credits based on the dollar amount of contributions as certified in the application. However, if the department cannot allocate the full amount of credits certified in the application due to the limit on the aggregate amount of credits that may be awarded under this section in a calendar year, the department shall so notify the applicant within thirty (30) days with the amount of credits, if any, that may be allocated to the applicant in the calendar year. Once the department has allocated credits to a taxpayer, if the contribution for which a credit is allocated has not been made as of the date of the allocation, then the contribution must be made not later than sixty (60) days from the date of the allocation. If the contribution is not made within such time period, the allocation shall be cancelled and returned to the department for reallocation. Upon final documentation of the contributions, if the actual dollar amount of the contributions is lower than the amount estimated, the department shall adjust the tax credit allowed under this section.

(b) A taxpayer who applied for a tax credit under this section during calendar year 2020, but who was unable to be awarded the credit due to the limit on the aggregate amount of credits authorized for calendar year 2020, shall be given priority for tax credits authorized to be allocated to taxpayers under this section by Section 27-7-22.39.

(c) For the purposes of using a tax credit against ad valorem taxes assessed and levied on real property, a taxpayer shall present to the appropriate tax collector the tax credit documentation provided to the taxpayer by the Department of Revenue, and the tax collector shall apply the tax credit against such ad valorem taxes. The tax collector shall forward the

tax credit documentation to the Department of Revenue along with the amount of the tax credit applied against ad valorem taxes, and the department shall disburse funds to the tax collector for the amount of the tax credit applied against ad valorem taxes. Such payments by the Department of Revenue shall be made from current tax collections.

(9) The aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed Five Million Dollars ($5,000,000.00), and not more than fifty percent (50%) of tax credits allocated during a calendar year may be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section. However, for calendar year 2021, the aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed Ten Million Dollars ($10,000,000.00), and for calendar year 2022, and for each calendar year thereafter, the aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed Sixteen Million Dollars ($16,000,000.00). For calendar year 2021, and for each calendar year thereafter, fifty percent (50%) of the tax credits allocated during a calendar year shall be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(i) of this section and fifty percent (50%) of the tax credits allocated during a calendar year shall be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section. For calendar year 2022, and for each calendar year thereafter, of the amount of tax credits that may be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section, fifteen percent (15%) of the tax credits shall be available solely for allocation for contributions to eligible charitable organizations described in subsection (1)(b)(ii)2; however, any such tax credits not allocated before April 1 of a calendar year may be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(ii)1 of this section. For calendar year 2021, and for each calendar year thereafter, for credits allocated during a calendar year for contributions to eligible charitable organizations described in subsection (1)(b)(i) of this section, no more than twenty-five percent (25%) of such credits may be allocated for contributions to a single eligible charitable organization. Except as otherwise provided in this section, for calendar year 2021, and for each calendar year thereafter, for credits allocated during a calendar year for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section, no more than five percent (5%) of such credits may be allocated for contributions to a single eligible charitable organization. However, for calendar year 2022, of the additional amount of tax credits authorized under this section, as amended by Chapter 480, Laws of 2021, for allocation for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section, Two Million Dollars ($2,000,000.00) of the tax credits shall be available solely for allocation for contributions to Magnolia Speech School; however, any such tax credits not allocated before April 1, 2022, may be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section.

[Effective from and after January 1, 2023, this section will read as follows:]

(1) For the purposes of this section, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Department" means the Department of Revenue.

(b) "Eligible charitable organization" means an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and is:

(i) Licensed by or under contract with the Mississippi Department of Child Protection Services and provides services for:

1. The prevention and diversion of children from custody with the Department of Child Protection Services,

2. The safety, care and well-being of children in custody with the Department of Child Protection Services, or

3. The express purpose of creating permanency for children through adoption; or

(ii) Certified by the department as an educational services charitable organization that is accredited by a regional accrediting organization and provides services to:

1. Children in a foster care placement program established by the Department of Child Protection Services, children placed under the Safe Families for Children model, or children at significant risk of entering a foster care placement program established by the Department of Child Protection Services,

2. Children who have a chronic illness or physical, intellectual, developmental or emotional disability, or

3. Children eligible for free or reduced price meals programs under Section 37-11-7, or selected for participation in the Promise Neighborhoods Program sponsored by the U.S. Department of Education.

(2)(a) The tax credit authorized in this section shall be available only to a taxpayer who is a business enterprise engaged in commercial, industrial or professional activities and operating as a corporation, limited liability company, partnership or sole proprietorship. Except as otherwise provided in this section, a credit is allowed against the taxes imposed by Sections 27-7-5, 27-15-103, 27-15-109 and 27-15-123, for voluntary cash contributions made by a taxpayer during the taxable year to an eligible charitable organization. From and after January 1, 2022, for a taxpayer that is not operating as a corporation, a credit is also allowed against ad valorem taxes assessed and levied on real property for voluntary cash contributions made by the taxpayer during the taxable year to an eligible charitable organization. The amount of credit that may be utilized by a taxpayer in a taxable year shall be limited to (i) an amount not to exceed fifty percent (50%) of the total tax liability of the taxpayer for the taxes imposed by such sections of law and (ii) an amount not to exceed fifty percent (50%) of the total tax liability of the taxpayer for ad valorem taxes assessed and levied on real

property. Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the tax year in which the credits were earned.

(b) A contribution to an eligible charitable organization for which a credit is claimed under this section does not qualify for and shall not be included in any credit that may be claimed under Section 27-7-22.39.

(c) A contribution for which a credit is claimed under this section may not be used as a deduction by the taxpayer for state income tax purposes.

(3) Taxpayers taking a credit authorized by this section shall provide the name of the eligible charitable organization and the amount of the contribution to the department on forms provided by the department.

(4) An eligible charitable organization shall provide the department with a written certification that it meets all criteria to be considered an eligible charitable organization. An eligible charitable organization must also provide the department with written documented proof of its license and/or written contract with the Mississippi Department of Child Protection Services. The organization shall also notify the department of any changes that may affect eligibility under this section.

(5) The eligible charitable organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification shall include the following:

(a) Verification of the organization's status under Section 501(c)(3) of the Internal Revenue Code;

(b) A statement that the organization does not provide, pay for or provide coverage of abortions and does not financially support any other entity that provides, pays for or provides coverage of abortions;

(c) A statement that the funds generated from the tax credit shall be used for educational resources, staff and expenditures and/or other purposes described in this section.

(d) Any other information that the department requires to administer this section.

(6) The department shall review each written certification and determine whether the organization meets all the criteria to be considered an eligible charitable organization and notify the organization of its determination. The department may also periodically request recertification from the organization. The department shall compile and make available to the public a list of eligible charitable organizations.

(7) Tax credits authorized by this section that are earned by a partnership, limited liability company, S corporation or other similar pass-through entity, shall be allocated among all partners, members or shareholders, respectively, either in proportion to their ownership interest in such entity or as the partners, members or shareholders mutually agree as provided in an executed document.

(8)(a) A taxpayer shall apply for credits with the department on forms prescribed by the department. In the application the taxpayer shall certify to the department the dollar amount of the contributions made or to be made

during the calendar year. Within thirty (30) days after the receipt of an application, the department shall allocate credits based on the dollar amount of contributions as certified in the application. However, if the department cannot allocate the full amount of credits certified in the application due to the limit on the aggregate amount of credits that may be awarded under this section in a calendar year, the department shall so notify the applicant within thirty (30) days with the amount of credits, if any, that may be allocated to the applicant in the calendar year. Once the department has allocated credits to a taxpayer, if the contribution for which a credit is allocated has not been made as of the date of the allocation, then the contribution must be made not later than sixty (60) days from the date of the allocation. If the contribution is not made within such time period, the allocation shall be cancelled and returned to the department for reallocation. Upon final documentation of the contributions, if the actual dollar amount of the contributions is lower than the amount estimated, the department shall adjust the tax credit allowed under this section.

(b) A taxpayer who applied for a tax credit under this section during calendar year 2020, but who was unable to be awarded the credit due to the limit on the aggregate amount of credits authorized for calendar year 2020, shall be given priority for tax credits authorized to be allocated to taxpayers under this section by Section 27-7-22.39.

(c) For the purposes of using a tax credit against ad valorem taxes assessed and levied on real property, a taxpayer shall present to the appropriate tax collector the tax credit documentation provided to the taxpayer by the Department of Revenue, and the tax collector shall apply the tax credit against such ad valorem taxes. The tax collector shall forward the tax credit documentation to the Department of Revenue along with the amount of the tax credit applied against ad valorem taxes, and the department shall disburse funds to the tax collector for the amount of the tax credit applied against ad valorem taxes. Such payments by the Department of Revenue shall be made from current tax collections.

(9) The aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed Five Million Dollars ($5,000,000.00), and not more than fifty percent (50%) of tax credits allocated during a calendar year may be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section. However, for calendar year 2021, the aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed Ten Million Dollars ($10,000,000.00), for calendar year 2022, the aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed Sixteen Million Dollars ($16,000,000.00), and for calendar year 2023, and for each calendar year thereafter, the aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed Eighteen Million Dollars ($18,000,000.00). For calendar year 2021, and for each calendar year thereafter, fifty percent (50%) of the tax credits allocated

during a calendar year shall be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(i) of this section and fifty percent (50%) of the tax credits allocated during a calendar year shall be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section. For calendar year 2021, and for each calendar year thereafter, for credits allocated during a calendar year for contributions to eligible charitable organizations described in subsection (1)(b)(i) of this section, no more than twenty-five percent (25%) of such credits may be allocated for contributions to a single eligible charitable organization. Except as otherwise provided in this section, for calendar year 2021, and for each calendar year thereafter, for credits allocated during a calendar year for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section, no more than four and one-half percent (4-1/2%) of such credits may be allocated for contributions to a single eligible charitable organization.

HISTORY: Laws, 2019, ch. 484, § 2, eff from and after January 1, 2019; Laws, 2020, ch. 453, § 2, eff from and after January 1, 2020; Laws, 2021, ch. 480, § 31, eff from and after passage (approved April 22, 2021); Laws, 2022, ch. 499, § 2, eff from and after January 1, 2023.

Editor's Notes — Laws of 2019, ch. 484, §§ 1, 5 and 6, effective January 1, 2019, provide:

"SECTION 1. This act shall be known and may be cited as the Children's Promise Act.

"SECTION 5. Section 2 of this act shall be codified as a new section in Chapter 7, Title 27, Mississippi Code of 1972.

"SECTION 6. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws or insurance premium tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws and insurance premium tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Laws of 2020, ch. 453, §§ 8 and 9, provide:

"SECTION 8. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws.

"SECTION 9. Sections 2 and 3 of this act shall take effect and be in force from and after January 1, 2020, and the remaining sections of this act shall take effect and be in force from and after July 1, 2020."

Laws of 2022, ch. 499, § 6, effective January 1, 2022, provides:

"SECTION 6. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws, insurance premium tax laws or ad valorem tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have

been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws, insurance premium tax laws and ad valorem tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Amendment Notes — The 2020 amendment, effective January 1, 2020, in (1)(b)(ii)3, added "or selected for...U.S. Department of Education"; in (8), added (b); in (9), added the last four sentences; and deleted former (10), which read: "The department shall not allocate any credits under this section after January 1, 2025."

The 2021 amendment, effective April 22, 2021, in (1)(b), in (i), substituted "under contract with the Mississippi Department" for "under contract or agreement with the Department," and in (ii), deleted "a job training, workforce development or" following "Certified by the department as" and made a related change; in (2)(a), added the third sentence, added (ii) in the fourth sentence, and made a related change; in (4), added the second sentence; in (8), added (c); and in (9), in the second sentence, deleted "and for each calendar year thereafter" following "calendar year 2021," and added "and for calendar year 2022...($16,000,000.00)," added the fourth sentence, added the exception at the beginning of the sixth sentence, and added the last sentence.

The 2022 amendment, effective January 1, 2023, added "that is accredited by a regional accrediting organization" in (1)(b)(ii); in (5), added (c); redesignated former (c) as (d); and rewrote (9).

Federal Aspects — Community Support for School Success, see 20 USCS 7271 et seq.

§ 27-7-22.42. Income tax credit for qualified railroad reconstruction or replacement expenditures made by eligible taxpayers; definitions [Repealed effective January 1, 2024].

(1) The following words and phrases shall have the meanings as defined in this section unless the context clearly indicates otherwise:

(a) "Eligible taxpayer" means any railroad that is classified by the United States Surface Transportation Board as a Class II or Class III railroad.

(b) "Eligible transferee" means any taxpayer having a liability for taxes under this chapter.

(c) "Qualified railroad reconstruction or replacement expenditures" means gross expenditures for maintenance, reconstruction or replacement of railroad infrastructure, including track, roadbed, bridges, industrial leads and sidings, and track-related structures owned or leased by a Class II or Class III railroad in Mississippi as of January 1, 2022.

(d) "Qualified new rail infrastructure expenditures" means gross expenditures for new construction of industrial leads, switches, spurs and sidings and extensions of existing sidings, for serving new customer locations or expansions in Mississippi, by a Class II or Class III railroad located in Mississippi.

(2) Subject to the provisions of this section, an eligible taxpayer making qualified railroad reconstruction or replacement expenditures shall be allowed

a credit against the taxes imposed under this chapter. The credit shall be for an amount equal to the lesser of fifty percent (50%) of an eligible taxpayer's qualified railroad reconstruction or replacement expenditures for the taxable year or the product of Five Thousand Dollars ($5,000.00) multiplied by the number of miles of railroad track owned or leased within the State of Mississippi by the eligible taxpayer as of the close of the taxable year. For qualified new rail infrastructure expenditures, the credit shall be for an amount equal to the lesser of fifty percent (50%) of an eligible taxpayer's qualified new rail infrastructure expenditures for the taxable year, capped at One Million Dollars ($1,000,000.00) per new rail-served customer project. However, the tax credit shall not exceed the amount of tax imposed upon the taxpayer for the taxable year reduced by the sum of all other credits allowable to the taxpayer under this chapter, except credit for tax payments made by or on behalf of the taxpayer. Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the taxable year in which the credit was earned. The aggregate amount of credits that may be claimed by all taxpayers claiming a credit under this section during a calendar year shall not exceed Eight Million Dollars ($8,000,000.00). In addition, an eligible taxpayer may transfer by written agreement any unused tax credit to an eligible transferee at any time during the year in which the credit is earned and the five (5) years following the taxable year in which the qualified railroad reconstruction or replacement expenditures or the qualified new rail infrastructure expenditures are made. The eligible taxpayer and the eligible transferee must jointly file a copy of the written transfer agreement with the Department of Revenue within thirty (30) days of the transfer. The written agreement must contain the: (a) name, address, and taxpayer identification number of the parties to the transfer; (b) taxable year the eligible taxpayer incurred the qualified railroad reconstruction or replacement expenditures or the qualified new rail infrastructure expenditures; (c) amount of credit being transferred; and (d) taxable year or years for which the credit may be claimed by the eligible transferee.

This section shall stand repealed on January 1, 2024.

HISTORY: Laws, 2022, ch. 495, § 1, eff from and after January 1, 2022.

Editor's Notes — Laws 2022, ch. 495, § 6, provides:

"SECTION 6. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws or ad valorem tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws and ad valorem tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

§ 27-7-22.43. Pregnancy Resource Act; tax credit for certain business enterprises making voluntary cash contributions to eligible charitable organizations.

(1) This section shall be known and may be cited as the "Pregnancy Resource Act."

(2) For the purposes of this section, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Department" means the Department of Revenue.

(b) "Eligible charitable organization" means an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and is a pregnancy resource center or crisis pregnancy center eligible to receive funding disbursed by the Choose Life Advisory Committee under Section 27-19-56.70, 27-19-56.277 and/or 27-19-56.412.

(3)(a) The tax credit authorized in this section shall be available only to a taxpayer who is a business enterprise engaged in commercial, industrial or professional activities and operating as a corporation, limited liability company, partnership or sole proprietorship. Except as otherwise provided in this section, a credit is allowed against the taxes imposed by Sections 27-7-5, 27-15-103, 27-15-109 and 27-15-123, for voluntary cash contributions made by a taxpayer during the taxable year to an eligible charitable organization. For a taxpayer that is not operating as a corporation, a credit is also allowed against ad valorem taxes assessed and levied on real property for voluntary cash contributions made by the taxpayer during the taxable year to an eligible charitable organization. The amount of credit that may be utilized by a taxpayer in a taxable year shall be limited to (i) an amount not to exceed fifty percent (50%) of the total tax liability of the taxpayer for the taxes imposed by such sections of law and (ii) an amount not to exceed fifty percent (50%) of the total tax liability of the taxpayer for ad valorem taxes assessed and levied on real property. Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the tax year in which the credits were earned.

(b) A contribution for which a credit is claimed under this section may not be used as a deduction by the taxpayer for state income tax purposes.

(4) Taxpayers taking a credit authorized by this section shall provide the name of the eligible charitable organization and the amount of the contribution to the department on forms provided by the department.

(5) An eligible charitable organization shall provide the department with a written certification that it meets all criteria to be considered an eligible charitable organization. The organization shall also notify the department of any changes that may affect eligibility under this section.

(6) The eligible charitable organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification shall include the following:

(a) Verification of the organization's status under Section 501(c)(3) of the Internal Revenue Code;

(b) A statement that the organization does not provide, pay for or provide coverage of abortions and does not financially support any other entity that provides, pays for or provides coverage of abortions;

(c) Any other information that the department requires to administer this section.

(7) The department shall review each written certification and determine whether the organization meets all the criteria to be considered an eligible charitable organization and notify the organization of its determination. The department may also periodically request recertification from the organization. The department shall compile and make available to the public a list of eligible charitable organizations.

(8) Tax credits authorized by this section that are earned by a partnership, limited liability company, S corporation or other similar pass-through entity, shall be allocated among all partners, members or shareholders, respectively, either in proportion to their ownership interest in such entity or as the partners, members or shareholders mutually agree as provided in an executed document.

(9)(a) A taxpayer shall apply for credits with the department on forms prescribed by the department. In the application the taxpayer shall certify to the department the dollar amount of the contributions made or to be made during the calendar year. Within thirty (30) days after the receipt of an application, the department shall allocate credits based on the dollar amount of contributions as certified in the application. However, if the department cannot allocate the full amount of credits certified in the application due to the limit on the aggregate amount of credits that may be awarded under this section in a calendar year, the department shall so notify the applicant within thirty (30) days with the amount of credits, if any, that may be allocated to the applicant in the calendar year. Once the department has allocated credits to a taxpayer, if the contribution for which a credit is allocated has not been made as of the date of the allocation, then the contribution must be made not later than sixty (60) days from the date of the allocation. If the contribution is not made within such time period, the allocation shall be cancelled and returned to the department for reallocation. Upon final documentation of the contributions, if the actual dollar amount of the contributions is lower than the amount estimated, the department shall adjust the tax credit allowed under this section.

(b) For the purposes of using a tax credit against ad valorem taxes assessed and levied on real property, a taxpayer shall present to the appropriate tax collector the tax credit documentation provided to the taxpayer by the Department of Revenue, and the tax collector shall apply the tax credit against such ad valorem taxes. The tax collector shall forward the tax credit documentation to the Department of Revenue along with the amount of the tax credit applied against ad valorem taxes, and the department shall disburse funds to the tax collector for the amount of the tax

credit applied against ad valorem taxes. Such payments by the Department of Revenue shall be made from current tax collections.

(10) The aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed Three Million Five Hundred Thousand Dollars ($3,500,000.00). For credits allocated during a calendar year for contributions to eligible charitable organizations, no more than fifty percent (50%) of such credits may be allocated for contributions to a single eligible charitable organization.

HISTORY: Laws, 2022, ch. 499, § 1, eff from and after January 1, 2022.

Editor's Notes — Laws of 2022, ch. 499, §§ 5 and 6, effective January 1, 2022, provide:

"SECTION 5. Sections 1 and 3 of this act shall be codified as new sections in Chapter 7, Title 27, Mississippi Code of 1972.

"SECTION 6. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws, insurance premium tax laws or ad valorem tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws, insurance premium tax laws and ad valorem tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

§ 27-7-22.44. Income tax credit for employer taxpayers for blood donations made by employees during a blood drive.

(1) As used in this section, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Blood donation" means the voluntary and uncompensated donation of whole blood, or specific components of blood, by an employee, drawn for use by a nonprofit blood bank organization as part of a blood drive.

(b) "Blood drive" means a function held at a specific date and time which is organized by a nonprofit blood bank organization in coordination with an employer or group of employers and is closed to nonemployees.

(c) "Employee" means an individual employed by an employer authorized to claim a tax credit under this section.

(d) "Employer" means a sole proprietor, general partnership, limited partnership, limited liability company, corporation or other legally recognized business entity.

(e) "Verified donation" means a blood donation by an employee, made during a blood drive, which can be documented by an employer.

(2) Subject to the provisions of this section, for calendar year 2022 and for calendar year 2023, a taxpayer that is an employer shall be allowed a credit against the taxes imposed under this chapter for each verified blood donation

made by an employee as part of a blood drive. The credit shall be for an amount equal to Twenty Dollars ($20.00) for each verified donation. However, the tax credit shall not exceed the amount of tax imposed upon the taxpayer for the taxable year reduced by the sum of all other credits allowable to the taxpayer under this chapter, except credit for tax payments made by or on behalf of the taxpayer. The maximum aggregate amount of tax credits that may be claimed by all taxpayers claiming a credit under this section in a taxable year shall not exceed One Hundred Thousand Dollars ($100,000.00). The department shall annually calculate and publish a percentage by which the tax credit authorized by this section shall be reduced so the maximum aggregate amount of tax credits claimed by all taxpayers claiming a credit in a taxable year does not exceed One Hundred Thousand Dollars ($100,000.00).

HISTORY: Laws, 2022, ch. 499, § 3, eff from and after January 1, 2022.

Editor's Notes — Laws of 2022, ch. 499, §§ 5 and 6, effective January 1, 2022, provide:

"SECTION 5. Sections 1 and 3 of this act shall be codified as new sections in Chapter 7, Title 27, Mississippi Code of 1972.

"SECTION 6. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws, insurance premium tax laws or ad valorem tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws, insurance premium tax laws and ad valorem tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

§ 27-7-23. Net income of nonresident and foreign taxpayers.

(a) **Definitions.**

(1) "Doing business" means the operation of any business enterprise or activity in Mississippi for financial profit or economic gain, including, but not limited to, the following:

(A) The regular maintenance of an office or other place of business in Mississippi; or

(B) The regular maintenance in Mississippi of an inventory of merchandise or material for sale, distribution or manufacture, regardless of whether kept on the premises of the taxpayer or otherwise; or

(C) The selling or distributing of merchandise to customers in Mississippi directly from a company-owned or operated vehicle when title to the merchandise is transferred from the seller or distributor to the customer at the time of the sale or distribution (transient selling); or

(D) The regular rendering of service to clients or customers in Mississippi in person or by agents or employees; or

(E) The owning, renting or operating of business or income-producing property, real or personal, in Mississippi; or

(F) The performing of contracts, prime or sublet work, for the construction, repair or renovation of real or personal property.

(2) "Business income" means income of any type or class, and from any activity that meets the relationship described in the transactional test or the functional test described in this paragraph (2). The classification of income by occasionally used labels, including, but not limited to, manufacturing income, compensation for services, sales income interest, dividends, rents, royalties, gains, operating income, and nonoperating income shall not be considered when determining whether income is business or nonbusiness income. All income of the taxpayer is business income unless clearly classifiable as nonbusiness income. A taxpayer seeking to overcome a classification of income as business income must establish by a preponderance of the evidence that the income has been incorrectly classified.

(A) Transactional test. Business income includes income arising from transactions and activity in the regular course of the taxpayer's trade or business.

(i) If the transaction or activity is in the regular course of the taxpayer's trade or business, part of which trade or business is conducted within Mississippi, the resulting income of the transaction or activity is business income for Mississippi. Income may be business income even though the actual transaction or activity that gives rise to the income does not occur in Mississippi.

(ii) For a transaction or activity to be in the regular course of the taxpayer's trade or business, the transactions or activity need not be one that frequently occurs in the trade or business, although most frequently occurring transactions or activities shall be considered to be in the regular course of a trade or business. It is sufficient to classify a transaction or activity as being in the regular course of a trade or business if it is reasonable to conclude transactions of that type are customary in the kind of trade or business being conducted or are within the scope of what the trade or business does.

(B) Functional test. Business income includes income from tangible and intangible property if the acquisition, management and/or disposition of the property constitute integral parts of the taxpayer's regular trade or business operation.

(i) Under the functional test, business income need not be derived from transactions or activities that are in the regular course of the taxpayer's own particular trade or business. It shall be sufficient if the property from which the income is derived is or was an integral, functional, necessary or operative component of the taxpayer's trade or business operations, part of which trade or business is or was conducted within this state.

(ii) Income that is derived from isolated sales, leases, assignments, licenses and other infrequently occurring dispositions, transfers or transactions involving property, including transactions made in liquidation or the winding up of business is business income if the property

is or was used in the taxpayer's trade or business operation. Income from the licensing of intangible assets, such as patents, copyrights, trademarks, service marks, goodwill, know-how, trade secrets and similar assets, that were developed or acquired for use by the taxpayer in his trade or business operations, constitute business income whether the licensing itself constituted the operation of a trade or business and whether the taxpayer remains in the same trade or business from or for which the intangible asset was developed or acquired.

(iii) Under the functional test, income from intangible property is business income when the intangible property serves an operating function, as opposed to solely an investment function. The relevant inquiry shall focus on whether the property is or was held in furtherance of the taxpayer's trade or business, that is, on the objective characteristics of the intangible property's use or acquisition and its relation to the taxpayer and the taxpayer's activities. The functional test is not satisfied where the holding of the property is limited solely to an investment function as in the case where the holding of the property is limited to mere financial betterment of the taxpayer in general.

(iv) If the property is or was held in furtherance of the taxpayer's trade or business beyond mere financial betterment, then income from the property may be business income even though the actual transaction or activity involving the property that gives rise to the income does not occur in Mississippi.

(v) If, with respect to an item of property, a taxpayer takes a deduction from business income that is apportioned to Mississippi, or includes that item of property in the property factor, it is presumed that the item of property is or was integral to the taxpayer's trade or business operations. No presumption arises from the absence of any of this action.

(vi) Application of the functional test is generally unaffected by the form of the property. Income arising from intangible property is business income when the intangible property itself or the underlying value of the intangible property is or was an integral, functional, necessary or operative component to the taxpayer's trade or business operation. Therefore, while treatment of income derived from transactions involving intangible property as business income may be supported by a finding that the issuer of the intangible property and the taxpayer are engaged in the same trade or business, establishment of such a relationship is not the exclusive basis for concluding that the income constitutes business income. It is sufficient to support a finding of business income if the holding of the intangible property served an operational rather than an investment function.

(3) "Nonbusiness income" means all income that does not meet the definition of business income.

(4) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(5) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(b) **Nonresident individuals, partnerships, trusts and estates.**

(1) The tax imposed by this article shall apply to the entire net income of a taxable nonresident derived from employment, trade, business, professional, personal service or other activity for financial gain or profit, performed or carried on within Mississippi, including the rental of real or personal property located within this state or for use herein and including the sale or exchange or other disposition of tangible or intangible property having a situs in Mississippi.

(2) Income derived from trade, business or other commercial activity shall be taxed to the extent that it is derived from such activity within this state. Mississippi net income shall be determined in the manner prescribed by the commissioner for the allocation and/or apportionment of income of foreign corporations having income from sources both within and without the state.

(3) A taxable nonresident shall be allowed to deduct expenses, interest, taxes, losses, bad debts, depreciation and similar business expenses only to the extent that they are allowable under this article and are attributable to the production of income allocable to and taxable by the State of Mississippi. As to allowable deductions essentially personal in nature, such as contributions to charitable organizations, medical expenses, taxes, interest and the optional standard deduction, such taxable nonresident shall be allowed deductions therefor in the ratio that the net income from sources within Mississippi bears to the total net income from all sources of such taxable nonresident, computed as if such taxable nonresident was a resident of Mississippi.

(c) **Foreign corporations, associations, organizations and other entities.**

(1) Corporations and organizations required to file. All foreign corporations and other organizations which have obtained a certificate of authority from the Secretary of State to do business in Mississippi, or corporations or organizations which are in fact doing business in Mississippi, are subject to the income tax levy and are required to file annual income tax returns unless the corporation or organization is specifically exempt from tax by this article.

(2) Allocation and apportionment of income.

(A) Except as provided in Sections 27-7-24, 27-7-24.1, 27-7-24.3, 27-7-24.5, 27-7-24.7, 27-7-24.8 and 27-7-24.9, Mississippi Code of 1972, any corporation or organization having business income from business activity which is taxable both within and without this state shall allocate and apportion its net business income as prescribed by regulations enacted by the commissioner. If the business income of the corporation is derived solely from property owned or business done in this state and the corporation is not taxable in another state, the entire business income shall be allocated to this state. A corporation is taxable in another state if,

in that state the corporation is subject to a net income tax, or a franchise tax measured by net income, or if that state has jurisdiction to subject the corporation to a net income tax regardless of whether the state does or does not subject the corporation to a net income tax.

(B) If the allocation and apportionment provisions of this section or regulations enacted by the commissioner do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for, or the commissioner may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(i) Separate accounting;

(ii) The exclusion of any one or more of the factors;

(iii) The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(iv) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(C) In any instance in which a taxpayer requests or the commissioner requires the use of any of the alternative apportionment methods in subparagraph (B) of this paragraph, the party requesting or requiring the method shall bear the burden of proving by preponderance of the evidence in any administrative or judicial proceeding that the methods set forth in this section or the commissioner's regulations do not fairly represent the extent of the taxpayer's business activity in this state and that the proposed method more fairly represents that activity than any other reasonable method available. The alternative apportionment authority specified in this subparagraph (D) is intended to be invoked only in limited and unique, nonrecurring circumstances where the standard apportionment provisions contained in the statutes and regulations produce unanticipated results that do not fairly represent the extent of the taxpayer's business activity in this state.

(D) The commissioner shall be prohibited from assessing any penalties related to a deficiency arising from requiring the use of an alternative apportionment method under subparagraph (B) of this paragraph unless the commissioner shall establish by preponderance of the evidence that the taxpayer's method was without reasonable basis or was not in accordance with existing statutes or regulations.

(3) Nonbusiness income. Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as follows:

(A) Net rents and royalties from real property are allocable to the state in which the property is located.

(B) Net rents and royalties from tangible personal property are allocable to the state in which the property is used, or to this state in their entirety if the corporation's commercial domicile is in this state and the corporation is not organized under the laws of or taxable in the state in which the property is utilized.

(C) Capital gains and losses from sales of real property are allocable to the state in which the property is located.

(D) Capital gains and losses from sales of tangible personal property are allocable to the state in which the property is located, or to this state if the corporation's commercial domicile is in this state and the corporation is not taxable in the state in which the property had a situs.

(E) Capital gains and losses from sales of intangible personal property are allocable to the state of the corporation's commercial domicile.

(F) Interest and dividends are allocable to the state of the corporation's commercial domicile.

(G) Patent and copyright royalties are allocable to the state in which the patent or copyright is utilized by the payer, or to this state if and to the extent that the patent or copyright is utilized by the payer in a state in which the corporation is not taxable and the corporation's commercial domicile is in this state.

(H) Any other nonbusiness income shall be allocated as prescribed by the commissioner.

(I) All expenses connected with earning nonbusiness income, such as interest, taxes, general and administrative expenses and such other expenses relating to the production of nonbusiness income, shall be deducted from gross nonbusiness income. Nonbusiness interest expense shall be computed by using the ratio of nonbusiness assets to total assets applied to total interest expense.

(d) **Foreign lenders.**

(1) In the case of any foreign lender, (corporation, association, organization, individual, partnership, trusts or estates), other than: (A) a foreign insurance company subject to certification by the Commissioner of Insurance, as provided by Section 83-21-1 et seq.; or (B) a foreign lender qualified under the general laws of this state to do business herein; or (C) a foreign lender which maintains an office or place of business within this state; or (D) lenders that sold properties in this state and financed such sale and reported on the installment method, interest income received or accrued on or after January 1, 1977, from loans secured by real estate or from lending on the security of real estate located within this state shall be excluded from Mississippi gross income and exempt from the Mississippi income tax levy and the reporting requirements.

(2) In the case of any foreign lender exempted in paragraph (1) of this subsection, interest income received on any loan finalized or consummated after January 1, 1977, shall be excluded from Mississippi gross income and the net profits derived therefrom shall be exempt from the Mississippi income tax levy for the life of such loan.

(e) **Insurance companies.** Insurance companies, other than life insurance companies, deriving premium income from within and without the state, may determine their Mississippi net income from underwriting by apportioning to this state a part of their total net underwriting income by such processes or formulas of general apportionment as are prescribed by the commissioner;

provided that a company adopting this method of reporting for any year must adhere to said method of reporting for subsequent years, unless permission is granted by the commissioner to change to a different method of reporting; and provided that all affiliated companies of the same group shall use the same method of reporting.

(f) **Bond requirements.** Any individual or corporation subject to the tax imposed by this article, engaged in the business of performing contracts which may require the payment of net income taxes, may be required by the commissioner, before entering into the performance of any contract or contracts the consideration of which is more than Ten Thousand Dollars ($10,000.00), to execute and file a good and valid bond with a surety company authorized to do business in this state, or with sufficient sureties to be approved by the commissioner, conditioned that all taxes which may accrue to the State of Mississippi will be paid when due. Provided, however, that such bond shall not exceed five percent (5%) of the total contracts entered into during the taxable period, and, provided further, that any taxpayer, in lieu of furnishing such bond, may pay the maximum sum required herein as advance payment of taxes due on the net income realized from any contract or contracts performed or completed in this state.

HISTORY: Codes, 1942, § 9220-12; Laws, 1934, ch. 120; Laws, 1936, ch. 151; Laws, 1952, ch. 402, § 11; Laws, 1958, ch. 554, § 3; Laws, 1977, ch. 500, § 1; Laws, 1978, ch. 475, § 3; Laws, 1981, ch. 435, § 1; Laws, 1989, ch. 485, § 30; Laws, 1996, ch. 441, § 69; Laws, 2001, ch. 586, § 4; Laws, 2014, ch. 469, § 2; Laws, 2014, ch. 476, § 1, eff from and after Jan. 1, 2015; Laws, 2019, ch. 344, § 2, eff from and after January 1, 2019.

Amendment Notes — The 2019 amendment, effective January 1, 2019, in (c)(2)(A), inserted "and 27-7-24.9," and made a related change.

§ 27-7-24.9. Allocation and apportionment of income of major medical laboratory service business with taxable activities within and without state.

(1) For purposes of the income tax imposed by this chapter, a major medical laboratory service business whose business activity is taxable both within and without this state shall apportion its business income (income which is includable in the apportionable tax base) to this state by multiplying such income by an apportionment percentage determined in accordance with this section.

(2) The net business income which has not been allocated, directly assigned or excluded shall be apportioned to Mississippi by multiplying such business income by a single sales factor. The sales factor is a fraction, the numerator of which is the receipts from medical laboratory services and other receipts of the taxpayer in this state during the taxable year, and the denominator of which is the total receipts of the taxpayer within and without this state during the taxable year.

(3)(a) Receipts attributable to medical laboratory services are determined to be within Mississippi if the medical laboratory services are provided on

behalf of an individual or patient whose service address is located in this state at the time the service is performed.

(b) Receipts attributable to medical laboratory services performed in this state shall be thrown back and sourced to this state if, pursuant to the patient service address rule in paragraph (a) of this subsection (3):

(i) The receipts are sourced to a state or local jurisdiction in which the taxpayer is not subject to an income or gross receipts tax (other than a general sales tax) during a given taxable year, or

(ii) The company is subject to an income or gross receipts tax in another state or local jurisdiction but the laws of that jurisdiction do not source such receipts to that jurisdiction.

For purposes of this paragraph (b), a company shall be considered taxable in another state or local jurisdiction if it files a separate company income or gross receipts tax return in that state or local jurisdiction, it is included in a unitary or combined group income or gross receipts tax return in that state or local jurisdiction, or if the state or local jurisdiction has authority to levy an income or gross receipts tax upon the company regardless of whether that jurisdiction actually levies such a tax.

(c) Any other receipts of the taxpayer not attributable to medical laboratory services shall be sourced to this state pursuant to regulations of the department.

(4) For purposes of this section:

(a) "Major Medical Laboratory Service Business" means a company that performs laboratory testing and analysis for the medical industry and that invests a minimum of Twenty-five Million Dollars ($25,000,000.00) in land, building, and/or equipment located in Mississippi and creates two hundred eighty (280) new full-time, direct jobs within three (3) years of start of operations, as certified by the Mississippi Development Authority.

(b) "Medical Laboratory Services" means laboratory testing and analysis performed for the medical industry.

(c) "Service address" means the physical location of the doctor's office, clinic, or other medical facility requesting the testing or analysis.

HISTORY: Laws, 2019, ch. 344, § 1, eff from and after January 1, 2019.

§ 27-7-25. Partnerships.

(1) Individuals carrying on businesses in partnerships shall be liable for income tax only in their individual capacity, unless for federal purposes the partnership is taxable as a corporation. If so, then the partnership is also taxable as a corporation for state purposes and is subject to all of the corporate tax laws and regulations. The gross income of an individual partner shall be the gross income the partnership distributed on the same basis as net income or earnings may be distributed. If the preceding exception applies, then the partner will be treated as a shareholder in a corporation.

There shall be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the taxable year.

The net income of the partnership shall be computed in the same manner and on the same basis as provided for individuals, provided no personal exemption shall be granted and, provided further, that husband and wife partnerships shall not be recognized for the purpose of this article, unless it can be proven that husband and wife have each contributed capital out of their separate estates, and not by gift, from one to the other.

In the case of partnerships, each partner that would otherwise be required to include more than twelve (12) months of income in a single taxable year may elect to include such excess in income in one (1) year or ratably over a period of four (4) taxable years.

In the event the individual partners fail to report and pay the taxes imposed according to this section, then the partnership and the general partners shall be jointly and severally liable for said tax liability and shall be assessed accordingly. However, the partnership and/or general partner shall not be liable if the partnership withholds five percent (5%) of the net gain or profit of the partnership for the tax year and remits the same to the commissioner. Such amounts paid to the commissioner shall be deemed to be payments of estimated tax of the partners and shall be allocated pro rata to the partners' taxpayer accounts. The commissioner may allow, or require, block or composite filing by a partnership, or withholding on a nonresident partner.

Magnetic media reporting may be required in a manner to be determined by the commissioner.

Partnership returns shall be filed in such manner and at such time as prescribed by law.

(2) For a partnership that has made an election under Section 27-7-26 to be taxed as an electing pass-through entity, the partnership shall pay income tax as provided for in Section 27-7-26.

HISTORY: Codes, 1942, § 9220-13; Laws, 1934, ch. 120; Laws, 1952, ch. 402, § 12; Laws, 1958, ch. 554, § 4; Laws, 1985, ch. 521, § 3; Laws, 1987, ch. 438, § 1; Laws, 1988, ch. 391, § 2; Laws, 1989, ch. 485, § 4, eff from and after January 1, 1990; Laws, 2022, ch. 416, § 2, eff from and after January 1, 2022.

Amendment Notes — The 2022 amendment, effective January 1, 2022, added (2).

§ 27-7-26. Election by partnership, S corporation or similar pass-through entity to be taxed as electing pass-through entity.

(1)(a) For calendar year 2022, and for each calendar year thereafter, any partnership, S corporation or similar pass-through entity may elect to be taxed as an electing pass-through entity and pay the tax imposed under this chapter at the entity level. For the purposes of this section, the term "electing pass-through entity" means a partnership, S corporation or similar pass-through entity that has made an election pursuant to this section.

(b) A partnership, S corporation or similar pass-through entity desiring to be taxed as an electing pass-through entity shall submit the appropriate

form to the Department of Revenue at any time during the tax year or on or before the fifteenth day of the third month following the close of that taxable year for which the entity elects to be taxed as an electing pass-through entity. This election shall be binding for that taxable year and all taxable years thereafter and shall not be revoked unless the electing pass-through entity submits the appropriate form to the department at any time during a subsequent taxable year or on or before the fifteenth day of the third month following the close of that taxable year for which the entity elects to no longer be taxed as an electing pass-through entity. Both the election to become an electing pass-through entity and the revocation of that election shall be accomplished by a vote by or written consent of the members of the governing body of the entity as well as a vote by or written consent of the owners, members, partners or shareholders holding greater than fifty percent (50%) of the voting control of the entity, within the time prescribed in this subsection.

(c) Each owner, member, partner or shareholder of an electing pass-through entity shall report his or her pro rata or distributive share of the income of the electing pass-through entity but shall not be liable for the tax imposed under this chapter on such pro rata or distributive share of the income of the electing pass-through entity. Each owner, member, partner or shareholder of an electing pass-through entity shall be allowed a credit against the taxes imposed under this chapter in an amount equal to his or her pro rata or distributive share of tax paid by the electing pass-through entity with respect to the corresponding taxable year.

(2) The adjusted basis of the owners, members or partners of an electing pass-through entity in their ownership interests in the electing pass-through entity shall be calculated without regard to the election under this section.

HISTORY: Laws, 2022, ch. 416, § 1, eff from and after January 1, 2022.

Editor's Notes — Laws of 2022, ch. 416, § 4, effective January 1, 2022, provides: "SECTION 4. Section 1 of this act shall be codified as a new section in Chapter 7, Title 27, Mississippi Code of 1972."

§ 27-7-39. Information at source.

(1) Every individual, partnership, corporation, joint-stock company or association or insurance company, being a resident or having a place of business in this state, members of partnerships or employees in whatever capacity acting, including lessees and mortgagors of real and personal property, fiduciaries, employers and all officers and employees of the state, or any political subdivision of the state, having the control, receipt, custody, disposal or payment of salaries, wages or commissions in excess of the exemption of the recipient, and of interest, rent, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable annual or periodical gains, profits and income, paid or payable during any year to any taxpayer, shall make complete returns thereof under oath to the commissioner, under

such regulations and conditions, in such form and manner and to such extent as may be prescribed by the commissioner, with the approval of the Governor; and, unless such payments are so reported, the commissioner may disallow such payments as deductions for credits in computing the tax of the payer. An exempt organization not subject to tax under the provisions of this article which fails to file the returns required by this section shall be notified of its delinquency and if such returns are not filed and the delinquency persists, the exemption from taxation enjoyed by the organization shall be forfeited.

(2) The commissioner may require material advisors and taxpayers required to notify the Internal Revenue Service of reportable transactions to notify the State Tax Commission of such transactions. The commissioner may require material advisors required to keep lists of reportable transactions for Internal Revenue Service purposes to do likewise for State Tax Commission purposes. The commissioner may specify the manner and method by which such transactions and lists must be reported as well as the scope of the information maintained and reported.

(3)(a) The Department of Revenue shall revise the individual income tax forms used for returns to include one or more additional lines to allow an individual taxpayer to designate:

(i) Up to two (2) bank accounts for direct deposit of the taxpayer's refund; and

(ii) The allocation of the taxpayer's refund amount between the designated bank accounts.

(b) The provisions of this subsection (3) shall be applicable to all income tax forms used for tax years beginning on or after January 1, 2021.

HISTORY: Codes, 1942, § 9220-20; Laws, 1934, ch. 120; Laws, 1952, ch. 402, § 19; Laws, 1958, ch. 554, § 5; Laws, 2008, ch. 433, § 4, eff from and after July 1, 2008; Laws, 2020, ch. 318, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment added (3).

§ 27-7-49. Examination of returns.

JUDICIAL DECISIONS

1. In general.

Chancery court properly granted summary judgment in favor of the Mississippi Department of Revenue (MDOR) in an appeal by a limited liability partnership (LLP) and its individual partners of MODOR's assessments because, inter alia, the LLP was properly notified of the audit, its mere "belief" that the audit was incorrect was insufficient to overcome the statutory prima facie presumption of correctness, the partners failed to rebut the factual assertions made by MDOR, their lack of production could be viewed as a refusal or delay, and the additional income discovered as a result of the increased business sales found in the audit flowed through to the partners' individual tax returns. Rawan Hayaf, LLP v. Frierson, 2021 Miss. App. LEXIS 256 (Miss. Ct. App. June 15, 2021).

When the Department of Revenue provides a notice of an examination in accordance with Miss. Code Ann. § 27-7-49(2), the statute of limitations found within § 27-7-49(1) cannot run, hence, it is tolled.

Caesars Entm't, Inc. v. Miss. Dep't of Revenue, 295 So. 3d 466, 2020 Miss. LEXIS 108 (Miss. 2020).

Notice of examination itself explicitly states that it serves to arrest the statute of limitations found within Miss. Code Ann. §§ 27-7-49 and 27-13-49; while the notice does use the word arrest instead of toll, the two are synonymous, and therefore, the notice tolls only the statute of limitations mentioned in the notice, not that of Miss. Code Ann. § 27-7-313. Caesars Entm't, Inc. v. Miss. Dep't of Revenue, 295 So. 3d 466, 2020 Miss. LEXIS 108 (Miss. 2020).

Miss. Code Ann. § 27-7-49(2) does not reference tolling Miss. Code Ann. § 27-7-313 or tolling a taxpayer's time to seek a refund, and the only time restriction it mentions is the one found in § 27-7-49(1), not the one found in § 27-7-313; language of § 27-7-49(2) does not extend the notice of examination's tolling privilege to a taxpayer's time to file a refund claim. Caesars Entm't, Inc. v. Miss. Dep't of Revenue, 295 So. 3d 466, 2020 Miss. LEXIS 108 (Miss. 2020).

It is clear that Miss. Code Ann. § 27-7-49(2) does not contain language regarding a taxpayer's ability to file a refund claim and it applies to the Department of Revenue, not to taxpayers; therefore, the Mississippi Supreme Court cannot find that a taxpayer can file a refund claim in compliance with § 27-7-49(2) when the statute itself does not permit it. Caesars Entm't, Inc. v. Miss. Dep't of Revenue, 295 So. 3d 466, 2020 Miss. LEXIS 108 (Miss. 2020).

Miss. Code Ann. § 27-7-313 controls a taxpayer's time for filing an income tax refund claim, not Miss. Code Ann. § 27-7-49(2), and thus § 27-7-49(2) does not extend the statute of limitations in § 27-7-313. Caesars Entm't, Inc. v. Miss. Dep't of Revenue, 295 So. 3d 466, 2020 Miss. LEXIS 108 (Miss. 2020).

Department of Revenue could have issued another assessment in 2014 if it had chosen to do so under one of the exceptions in Miss. Code Ann. § 27-7-49(2)-(4), and since the notice provided by the Department tolled the statute of limitations in the statute, the Department had time remaining in which to commence another examination or make a reassessment under the statute, but the Department was under no duty or obligation to conduct a second examination to establish the correct tax liability of a taxpayer. Caesars Entm't, Inc. v. Miss. Dep't of Revenue, 295 So. 3d 466, 2020 Miss. LEXIS 108 (Miss. 2020).

Miss. Code Ann. § 27-7-49(2) applies only to the Department of Revenue and clearly and unambiguously does not afford a taxpayer additional time to file a new or amended tax-refund claim. Caesars Entm't, Inc. v. Miss. Dep't of Revenue, 295 So. 3d 466, 2020 Miss. LEXIS 108 (Miss. 2020).

§ 27-7-51. Additional taxes or refunds.

JUDICIAL DECISIONS

2. Duty of Department.

Mandate of Miss. Code Ann. § 27-7-51(1) that the Department of Revenue refund an overpayment of taxes does not apply unless and until the Department has conducted an examination and has made such a determination, and nothing in § 27-7-51(1) mandates that the Department conduct a second examination. Caesars Entm't, Inc. v. Miss. Dep't of Revenue, 295 So. 3d 466, 2020 Miss. LEXIS 108 (Miss. 2020).

Department had conducted an examination of the company's initial tax return and concluded that its actual tax liability was not greater or less than that shown in the return and issued a tax assessment for $ 0.00; because the Department found the company's tax determination was correct, Miss. Code Ann. § 27-7-51(1) did not create a duty for the Department to issue a refund after its examination of the company's returns. Caesars Entm't, Inc. v. Miss. Dep't of Revenue, 295 So. 3d 466, 2020 Miss. LEXIS 108 (Miss. 2020).

§ 27-7-83. Confidentiality of reports and returns; release of certain information under certain circumstances.

(1) Returns and return information filed or furnished under the provisions of this chapter shall be confidential, and except in accordance with proper judicial order, as otherwise authorized by this section, as authorized in Section 27-4-3 or as authorized under Section 27-7-821, it shall be unlawful for the Commissioner of Revenue or any deputy, agent, clerk or other officer or employee of the Department of Revenue or the Mississippi Department of Information Technology Services, or any former employee thereof, to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required. The provisions of this section shall apply fully to any federal return, a copy of any portion of a federal return, or any information reflected on a federal return which is attached to or made a part of the state tax return. Likewise, the provisions of this section shall apply to any federal return or portion thereof, or to any federal return information data which is acquired from the Internal Revenue Service for state tax administration purposes pursuant to the Federal-State Exchange Program cited at Section 6103, Federal Internal Revenue Code. The term "proper judicial order" as used in this section shall not include subpoenas or subpoenas duces tecum, but shall include only those orders entered by a court of record in this state after furnishing notice and a hearing to the taxpayer and the Department of Revenue. The court shall not authorize the furnishing of such information unless it is satisfied that the information is needed to pursue pending litigation wherein the return itself is in issue, or the judge is satisfied that the need for furnishing the information outweighs the rights of the taxpayer to have such information secreted.

(2) Returns and return information with respect to taxes imposed by this chapter shall be open to inspection by or disclosure to the Commissioner of the Internal Revenue Service of the United States, or the proper officer of any state imposing an income tax similar to that imposed by this chapter, or the authorized representatives of such agencies. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agencies, or the district director in the case of the Internal Revenue Service, and only to the representatives of such agencies designated in a written statement to the Commissioner of Revenue as the individuals who are to inspect or to receive the return or return information on behalf of such agency. The Commissioner of Revenue is authorized to enter into agreements with the Internal Revenue Service and with other states for the exchange of returns and return information data, or the disclosure of returns or return information data to such agencies, only to the extent that the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of the tax laws of this state.

(3)(a) The return of a person shall, upon written request, be open to inspection by or disclosure to:

(i) In the case of the return of an individual, that individual;

(ii) In the case of an income tax return filed jointly, either of the individuals with respect to whom the return is filed;

(iii) In the case of the return of a partnership, any person who was a member of such partnership during any part of the period covered by the return;

(iv) In the case of the return of a corporation or a subsidiary thereof, any person designated by resolution of its board of directors or other similar governing body, or any officer or employee of such corporation upon written request signed by any principal officer and attested to by the secretary or other officer;

(v) In the case of the return of an estate, the administrator, executor or trustee of such estate, and any heir at law, next of kin or beneficiary under the will, of the decedent, but only to the extent that such latter persons have a material interest which will be affected by information contained therein;

(vi) In the case of the return of a trust, the trustee or trustees, jointly or separately, and any beneficiary of such trust, but only to the extent that such beneficiary has a material interest which will be affected by information contained therein;

(vii) In the case of the return of an individual or a return filed jointly, any claimant agency or claimant local government seeking to collect a debt through the setoff procedure established in Sections 27-7-701 through 27-7-713, Sections 27-7-501 through 27-7-519 and/or Sections 27-7-801 through 27-7-823, as the case may be, from an individual with respect to whom the return is filed.

(b) If an individual described in paragraph (a) is legally incompetent, the applicable return shall, upon written request, be open to inspection by or disclosure to the committee, trustee or guardian of his estate.

(c) If substantially all of the property of the person with respect to whom the return is filed is in the hands of a trustee in bankruptcy or receiver, such return or returns for prior years of such person shall, upon written request, be open to inspection by or disclosure to such trustee or receiver, but only if the Commissioner of Revenue finds that such receiver or trustee, in his fiduciary capacity, has a material interest which will be affected by information contained therein.

(d) Any return to which this section applies shall, upon written request, also be open to inspection by or disclosure to the attorney-in-fact duly authorized in writing by any of the persons described in paragraph (a) of this subsection to inspect the return or receive the information on his behalf, subject to the conditions provided in paragraph (a).

(e) Return information with respect to any taxpayer may be open to inspection by or disclosure to any person authorized by this subsection to inspect any return of such taxpayer if the Commissioner of Revenue determines that such disclosure would not seriously impair state tax administration.

(4) The State Auditor and the employees of his office shall have the right to examine only such tax returns as are necessary for auditing the Department of Revenue and auditing benefits administered under the United States Department of Health and Human Services and the United States Department of Agriculture. The State Auditor and the employees of his office may make information related to auditing such benefits available to and may exchange the information with state agencies responsible for the administration of the benefits. Except as otherwise provided in this subsection (4), the same prohibitions against disclosure which apply to the Department of Revenue shall apply to the State Auditor and his employees or former employees.

(5) Officers and employees of the Mississippi Development Authority who execute a confidentiality agreement with the Department of Revenue shall be authorized to discuss and examine information to which this section applies at the offices of the Mississippi Department of Revenue. This disclosure is limited to information necessary to properly administer the programs under the jurisdiction of the Mississippi Development Authority. The Department of Revenue is authorized to disclose to officers and employees of the Mississippi Development Authority who execute a confidentiality agreement the information necessary under the circumstances. The same prohibitions against disclosure which apply to the Department of Revenue shall apply to the officers or employees of the Mississippi Development Authority.

(6) Information required by the University Research Center to prepare the analyses required by Sections 57-13-101 through 57-13-109 shall be furnished to the University Research Center upon request. It shall be unlawful for any officer or employee of the University Research Center to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any information received by the center from the Department of Revenue other than as may be required by Sections 57-13-101 through 57-13-109 in an analysis prepared pursuant to Sections 57-13-101 through 57-13-109.

(7) Information required by the Mississippi Development Authority to prepare the reports required by Section 57-1-12.2 shall be furnished to the Mississippi Development Authority upon request. It shall be unlawful for any officer or employee of the Mississippi Development Authority to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any information received by the Mississippi Development Authority from the Department of Revenue other than as may be required by Section 57-1-12.2 in a report prepared pursuant to Section 57-1-12.2.

(8) Information necessary to comply with Chapter 13, Title 85, may be furnished to financial institutions. It shall be unlawful for any officer or employee of the financial institution to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any information received by the financial institution from the Department of Revenue other than as may be authorized by Chapter 13, Title 85.

(9) The Commissioner of Revenue and the Department of Revenue are authorized to discuss with and provide the Attorney General or his designated

representative with information related to an offer to compromise and settle any doubtful claim regarding a finally determined tax liability as authorized by Section 31-19-30. It shall be unlawful for the Attorney General or any officer or employee of the Attorney General to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any information received by the Attorney General's office from the Commissioner of Revenue or Department of Revenue other than as may be required by Section 31-19-30.

(10) Nothing in this section shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the Attorney General, or any other attorney representing the state, of the report or return of any taxpayer who shall bring action to set aside the tax thereon, or against whom any action or proceeding has been instituted to recover any tax or penalty imposed.

(11) Nothing in this section shall prohibit the commissioner from making available information necessary to recover taxes owing the state pursuant to the authority granted in Section 27-75-16.

(12) Reports and returns required under the provisions of this chapter shall be preserved in accordance with approved records control schedules. No records, however, may be destroyed without the approval of the Director of the Department of Archives and History.

(13) The Department of Revenue is authorized to disclose to the Child Support Unit and to the Fraud Investigation Unit of the Department of Human Services without the need for a subpoena or proper judicial order the name, address, social security number, amount of income, source of income, assets and other relevant information, records and tax forms for individuals who are delinquent in the payment of any child support as defined in Section 93-11-101 or who are under investigation for fraud or abuse of any state or federal program or statute as provided in Section 43-1-23.

(14) Nothing in this section shall prohibit the Department of Revenue from exchanging information with the federal government that is necessary to offset income tax refund payment on debts owed to this state or the United States.

(15) Nothing in this section shall prohibit the department from making available information that is necessary to be disclosed for the administration and enforcement of Section 27-7-87.

HISTORY: Codes, 1942, § 9220-35; Laws, 1934, ch. 120; Laws, 1952, ch. 402, § 34; Laws, 1975, ch. 516, § 2; Laws, 1978, ch. 342, § 1; Laws, 1981, ch. 501, § 21; Laws, 1984; ch. 447, § 3; Laws, 1985, ch. 364, § 11; Laws, 1985, ch. 464, § 8; Laws, 1988, ch. 349, § 3; Laws, 1997, ch. 588, § 145; Laws, 2004, ch. 516, § 3; Laws, 2010, ch. 327, § 2; Laws, 2010, ch. 385, § 2; Laws, 2010, ch. 388, § 3; Laws, 2010, ch. 481, § 2; Laws, 2014, ch. 517, § 9; Laws, 2017, ch. 407, § 6, eff from and after July 1, 2017; Laws, 2019, ch. 345, § 13, eff from and after January 1, 2019; Laws, 2020, ch. 301, § 1, eff from and after passage (became law without the Governor's signature on March 11, 2020); Laws, 2021, ch. 461, § 5, eff from and after July 1, 2021.

Amendment Notes — The 2019 amendment, effective January 1, 2019, in (1), inserted "or as authorized under Section 27-7-821" and made a related change; and in (3)(a)(vii), inserted "or claimant local government" and "and/or Sections 27-7-801 through 27-7-823, as the case may be" and made a related change.

The 2020 amendment, effective March 11, 2020, rewrote (4), which read: "The State Auditor and the employees of his office shall have the right to examine only such tax returns as are necessary for auditing the Department of Revenue, and the same prohibitions against disclosure which apply to the Department of Revenue shall apply to the State Auditor and his employees or former employees."

The 2021 amendment added (9); and redesignated former (9) through (14) as (10) through (15).

§ 27-7-107. Repealed.

Repealed by Laws, 2018, ch. 395, § 3, eff from and after July 1, 2018.

§ 27-7-107. [Laws, 2009, ch. 418, § 2, eff from and after July 1, 2009.]

Editor's Notes — Former § 27-7-107 provided that resident individuals could make a contribution to the Mississippi Bicentennial Celebration Fund from their tax refunds.

§ 27-7-109. Deductions for payments paid with funds received under Paycheck Protection Program; when allowed.

There shall not be allowed a deduction for otherwise deductible payments paid with funds received under the Paycheck Protection Program (PPP) established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, but only to the extent those payments are not allowed as deductions for federal income tax purposes. To the extent such payments are allowed as deductions for federal income tax purposes, those expenses shall be deemed to have been incurred in connection with earning and distributing taxable income, notwithstanding that such payments resulted in forgiveness of loans received.

HISTORY: Laws, 2020, ch. 303, § 11, eff from and after passage (approved May 20, 2020); Laws, 2020, ch. 421, § 3, eff from and after January 1, 2020; Laws, 2020, ch. 494, § 1, eff from and after passage (became law without the Governor's signature on August 18, 2020).

Joint Legislative Committee Notes —

Section 11 of Chapter 303, Laws of 2020, effective from and after passage (approved May 20, 2020), added this section. Section 3 of Chapter 421, Laws of 2020, effective from and after January 1, 2020, amended this section. Section 1 of Chapter 494, Laws of 2020, effective from and after passage (became law without the Governor's signature on August 18, 2020), also amended this section. As set out above, this section reflects the language of amendments by Chapter 421 and Chapter 494, pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision, and Publication of Legislation authority to integrate amendments so that all versions of the same code section amended within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the October 19, 2020, meeting of the Committee.

Editor's Notes — Laws of 2020, ch. 303, §§ 3 and 12, effective May 20, 2020 as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provide:

"SECTION 3. The Legislature intends to provide economic support to eligible Mississippi businesses for costs incurred in connection with the Coronavirus Disease 2019 (COVID-19), including business interruption caused by forced closures or restricted operations resulting from voluntary closures instituted to promote social distancing measures, decreased customer demand, cleaning or disinfection, and provision of personal protective equipment. Eligible expenses shall not include any damage paid by business interruption insurance or disallowed by Section 5001 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act or any guidance or regulation issued by the United States Department of the Treasury in conformity therewith.

"In order to expedite payment to businesses in need of economic support due to required or voluntary closures related to COVID-19, while minimizing administrative costs and delays, the Legislature finds that a direct payment of Two Thousand Dollars ($2,000.00) per business is a necessary cost, as provided for in Section 4 of this act. This payment is specifically to compensate these businesses for an initial compliance with the Governor's State of Emergency COVID-19 Proclamation issued on March 14, 2020. As such, this payment is not related to and is separate and distinct from any eligible expense that is reimbursable from the Back to Business Program. The Legislature finds further that an application process is warranted for the provision of additional compensation, whereby eligible businesses not wishing to itemize their expenses may receive, subject to approval, a base payment of Three Thousand Five Hundred Dollars ($3,500.00) plus Five Hundred Dollars ($500.00) per full-time equivalent employee as a reasonable estimate of their costs incurred, as provided for in Sections 5 through 10 of this act.

"SECTION 12. If any section, paragraph, sentence, clause, phrase or any part of this act is declared to be in conflict with federal law, or if for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses, phrases or parts thereof shall be in no manner affected thereby but shall remain in full force and effect."

Laws of 2020, ch. 494, § 2, effective August 18, 2020, provides:

"SECTION 2. All changes made in this act to Senate Bill No. 2772, 2020 Regular Session [Chapter 303, Laws of 2020], shall be retroactive to May 20, 2020."

Amendment Notes — The first 2020 amendment (ch. 421), effective January 1, 2020, rewrote the section, which read: "Funds received under the Paycheck Protection Program (PPP) shall not be subject to tax; however, eligible expenses for which PPP funds are received may not be itemized as tax deductions."

The second 2020 amendment (ch. 494), effective August 18, 2020, made no changes in this section as it was enacted by Laws of 2020, ch. 303, § 11

Federal Aspects — Coronavirus Aid, Relief, and Economic Security Act (CARES Act), see P.L. 116-136.

ARTICLE 2.

ENDOW MISSISSIPPI PROGRAM

Sec.

27-7-201. Short title.
27-7-203. Legislative purpose.
27-7-205. Definitions.
27-7-207. Credit against tax imposed by this chapter equal to 25% of qualified contribution to endowed fund at qualified community foundation subject to certain requirements.
27-7-209. Allocation of authorized tax credits; maintenance of records that determine priority for awarding tax credits.

Sec.
27-7-211. Development of forms, procedures for review and approval of applications for tax credits, and issuance of tax credits; establishment of reporting and monitoring requirements; monitoring and annual certification of approved tax credits.
27-7-213. Tax credits are non-transferable; process for allocation of available tax credits if less than requested; periodic reporting of impact of tax credits.

§ 27-7-201. Short title.

This article shall be known and may be cited as the "Endow Mississippi Program."

HISTORY: Laws, 2019, ch. 440, § 1, eff from and after January 1, 2019.

§ 27-7-203. Legislative purpose.

The purpose of this article is to promote philanthropic investments in local community development programs and activities, and to enhance the quality of life for Mississippi's children, families and communities, by providing a tax credit for charitable gifts made by taxpayers to endowed funds held by community foundations in Mississippi.

HISTORY: Laws, 2019, ch. 440, § 2, eff from and after January 1, 2019.

§ 27-7-205 Definitions.

As used in this article:

(a) "Qualified community foundation" means an entity that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code that is recognized by the Mississippi Association of Grantmakers as meeting the following requirements:

(i) It is organized by articles of incorporation in the State of Mississippi to serve the State of Mississippi, or one or more Mississippi counties or municipalities, or a combination thereof;

(ii) It is comprised of permanent, component funds established by multiple separate donors;

(iii) It supports broad-based charitable interests that benefit the residents of a defined geographic area, no larger than the State of Mississippi;

(iv) It is directed by a board of directors that is comprised of community representatives and is independent in that it is not subject to the control of another entity;

(v) It actively engages in charitable activities, including, but not limited to, supporting two (2) or more unaffiliated tax-exempt organizations through grants or other professionally accepted means of charitable support, and serving in leadership roles on important community issues;

(vi) It complies with the guidelines of the Mississippi Association of Grantmakers, or its successor entity, for membership by a community foundation; and

(vii) It is in good standing with having complied with Endow Mississippi certification, reporting, and data privacy requirements.

(b) "Endowment gift" means an irrevocable contribution to an endowed fund held by a qualified community foundation.

(c) "Qualified contribution" means an endowment gift of at least One Thousand Dollars ($1,000.00) made to a qualified community foundation for an endowed fund established to substantially benefit charitable causes in this state, and that is a charitable gift as defined in Section 170(c) of the Internal Revenue Code. A qualified contribution may take any form, subject to the giving policies of the qualified community foundation receiving it.

(d) "Endowed fund" means a fund held in a qualified community foundation that provides benefit to charitable causes in Mississippi that is intended to exist in perpetuity. An endowed fund may include, but is not limited to, donor-advised funds, community foundation affiliate funds, field-of-interest funds, agency funds and designated organizational funds.

HISTORY: Laws, 2019, ch. 440, § 3, eff from and after January 1, 2019.

§ 27-7-207. Credit against tax imposed by this chapter equal to 25% of qualified contribution to endowed fund at qualified community foundation subject to certain requirements.

(1) Subject to the limitations provided for in this section, through calendar year 2023 a taxpayer shall be allowed a credit against the tax imposed by Chapter 7, Title 27, in an amount equal to twenty-five percent (25%) of a qualified contribution to an endowed fund at a qualified community foundation, subject to the following:

(a) The minimum amount of a qualified contribution shall be One Thousand Dollars ($1,000.00).

(b) The maximum amount of a qualified contribution shall be Two Hundred Thousand Dollars ($200,000.00).

(c) The total qualified contributions from any qualified taxpayer eligible for the tax credit authorized under this section shall be Two Hundred Thousand Dollars ($200,000.00) per year.

(2) Except as otherwise provided in this subsection, the aggregate amount of tax credits authorized under this article shall not exceed Five Hundred Thousand Dollars ($500,000.00) in any one (1) calendar year. The credits shall be awarded on a first-come, first-served basis. If the tax credits authorized for used in any calendar year are not utilized, the amount not utilized may be awarded or carried forward in up to five (5) subsequent calendar years from the year in which such credits are made available.

(3) If the amount allowable as a credit exceeds the tax imposed by Chapter 7, Title 27, the amount of such excess may be carried forward for not more than five (5) subsequent taxable years.

(4) From and after January 1, 2024, no additional credits shall be authorized under this section; however, any tax credits authorized prior to

January 1, 2024, and not used, may be carried forward for not more than five (5) taxable years subsequent to calendar year 2023.

HISTORY: Laws, 2019, ch. 440, § 4, eff from and after January 1, 2019.

§ 27-7-209. Allocation of authorized tax credits; maintenance of records that determine priority for awarding tax credits.

For each calendar year, a total of ten percent (10%) of the authorized tax credits shall be reserved for qualified contributions to each of the qualified community foundations in Mississippi for a period of nine (9) months. Any credits that are not utilized within the nine-month period shall be utilized for qualified contributions to any qualified community foundation on a first-come, first-served basis. Any credits not specifically reserved under this section shall also be available to any qualified community foundation on a first-come, first-served basis. The Mississippi Association of Grantmakers, or its successor entity, shall, in cooperation with qualified community foundations, develop, establish and maintain records that determine the priority for the awarding of tax credits under this article.

HISTORY: Laws, 2019, ch. 440, § 5, eff from and after January 1, 2019.

§ 27-7-211. Development of forms, procedures for review and approval of applications for tax credits, and issuance of tax credits; establishment of reporting and monitoring requirements; monitoring and annual certification of approved tax credits.

(1) The Mississippi Association of Grantmakers, or its successor entity, in cooperation with qualified community foundations in Mississippi, shall develop application forms, procedures for the review and approval of applications for tax credits authorized under this article, for the issuance of tax credits authorized under this article, and to establish reporting and monitoring requirements for the tax credits authorized by this article. The Mississippi Association of Grantmakers, or its successor entity, shall also develop or revise forms by which the tax credits are reported to the State of Mississippi.

(2) Application forms shall be available online and in print from the Mississippi Association of Grantmakers, or its successor entity, and qualifying community foundations.

(3) Applications shall be filed jointly by the qualified taxpayer seeking the tax credit and the qualified community foundation that is to receive the proposed qualifying contribution. The qualified community foundation shall:

(a) Log the date and time each application is received;

(b) Review each application for compliance with this section;

(c) Forward required documentation for applications to the Mississippi Association of Grantmakers, or its successor entity; and

(d) Certify that the applications are for qualifying contributions that are eligible for tax credits.

(4) The Mississippi Association of Grantmakers, or its successor entity, shall review the applications and documentation. The Mississippi Association of Grantmakers, or its successor entity, shall provide lists of approved applications to qualified community foundations, who in turn shall issue notice of approval of tax credits to the taxpayer seeking the credit. Upon notice of approval, the qualifying contribution shall be made by the qualified taxpayer within a reasonable time, dependent on the form of the qualifying contribution and the giving policies of the qualified community foundation.

(5) The Mississippi Association of Grantmakers, or its successor entity, shall monitor all tax credits issued pursuant to this article and, on or before December 31 of each year, certify to the Mississippi Department of Revenue all tax credits approved pursuant to this article and provide the department with all data required to ensure that qualified taxpayers receive any credit to which they are entitled.

HISTORY: Laws, 2019, ch. 440, § 6, eff from and after January 1, 2019.

§ 27-7-213. Tax credits are non-transferable; process for allocation of available tax credits if less than requested; periodic reporting of impact of tax credits.

(1) No tax credits issued under this article to any qualified taxpayer shall be sold or otherwise transferable to any other taxpayer.

(2) Should the total amount of tax credits available, whether reserved to qualified community foundations or otherwise, be less than the total amount of tax credit requested under the provisions of this article, the Mississippi Association of Grantmakers, or its successor entity, shall determine the process for the allocation of any available tax credits.

(3) All applications for tax credits and any subsequent documentation of the process of application and issuance of tax credits shall be subject to applicable privacy laws.

(4) The Mississippi Association of Grantmakers, or its successor entity, may request qualifying community foundations to periodically report on the impact of tax credits issued under this article, including, but not limited to:

(a) Increases to endowed funds held by qualified community foundations;

(b) Capture of generational transfer of wealth for the benefit of Mississippi communities and organizations; and

(c) Improvements to and support of community development programs, projects and activities.

HISTORY: Laws, 2019, ch. 440, § 7, eff from and after January 1, 2019.

ARTICLE 3.

WITHHOLDING OF TAX.

Sec.
27-7-309. Employer's return and payment of taxes withheld.
27-7-311. Annual withholding statement.

§ 27-7-309. Employer's return and payment of taxes withheld.

(1)(a) Except as otherwise provided in this subsection, every employer required to deduct and withhold from wages under this article shall, for each calendar quarter, on or before the fifteenth day of the month following the close of such calendar quarter, file a withholding return as prescribed by the commissioner and pay over to the commissioner the full amount required to be deducted and withheld from wages by such employer for the calendar quarter. Provided that the commissioner may, by regulation, provide that every such employer shall, on or before the fifteenth day of each month, pay over to the commissioner or a depository designated by the commissioner, the amount required to be deducted and withheld by such employer for the preceding month, if such amount is One Hundred Dollars ($100.00) or more. Returns and payments placed in the mail must be postmarked by the due date in order to be timely filed, except when the due date falls on a weekend or holiday, returns and payments placed in the mail must be postmarked by the first working day following the due date in order to be considered timely filed.

(b) The commissioner may promulgate rules and regulations to require or permit filing periods of any duration, in lieu of monthly or quarterly filing periods, for any taxpayer or group thereof.

(2) Notwithstanding any of the other provisions of this section, all transient employers and all employers engaged in any business which is seasonal shall make return and pay over to the commissioner on a monthly basis, the full amounts required to be deducted and withheld from the wages by such employer for the calendar month. Such returns and payments to the commissioner by such employers shall be made on or before the fifteenth day of the month following the month for which such amounts were deducted and withheld from the wages of his employees. The commissioner shall have the authority to issue reasonable rules and regulations designating or classifying those transient and seasonal employers.

(3) If the commissioner, in any case, has justifiable reason to believe that the collection of funds required to be withheld by any employer as provided herein is in jeopardy, he may require the employer to file a return and pay such amount required to be withheld at any time.

(4) Every employer who fails to withhold or pay to the commissioner any sums required by this article to be withheld and paid, shall be personally and individually liable therefor, except as provided in Section 27-7-307; and any sum or sums withheld in accordance with the provisions of this article shall be

deemed to be held in trust for the State of Mississippi and shall be recorded by the employer in a ledger account so as to clearly indicate the amount of tax withheld and that the amount is the property of the State of Mississippi.

(5) Once an employer has become liable to a quarterly return of withholding, he must continue to file a quarterly report, even though no tax has been withheld, until such time as he notifies the commissioner, in writing, that he no longer has employees or that he is no longer liable for such quarterly returns.

(6) Once an employer has become liable to a monthly return of withholding, he must continue to file a monthly report, even though no tax has been withheld until such time as he notifies the commissioner, in writing, that he no longer has employees or that he is no longer liable for such monthly returns.

(7) Magnetic media reporting may be required in a manner to be determined by the commissioner.

(8) Any employer who is required to deduct and withhold from wages for any monthly or quarterly period pursuant to this article, and who is also eligible to apply as a credit against any amount to be deducted and withheld for such period from wages by such employer under this article a tax credit awarded by the Mississippi Development Authority in accordance with the Mississippi Flexible Tax Incentive Act, may apply the tax credit in the amount available for such purpose, or such lesser amount determined by such employer, pursuant to the Mississippi Flexible Tax Incentive Act. The credit applied for any monthly or quarterly reporting period shall be reflected on the form of the return in the manner prescribed by the commissioner.

HISTORY: Codes, 1942, § 9220-65; Laws, 1968, ch. 580, § 5; Laws, 1982, ch. 489, § 4; Laws, 1988, ch. 391, § 8; Laws, 1995, ch. 549, § 1; Laws, 1998, ch. 412, § 1; Laws, 2002, ch. 539, § 1; Laws, 2005, ch. 330, § 1; Laws, 2007, ch. 536, § 1; Laws, 2008, ch. 507, § 9; Laws, 2009, ch. 563, § 7; Laws, 2010, ch. 562, § 7; Laws, 2012, ch. 547, § 3, eff from and after July 1, 2012; Laws, 2021, ch. 475, § 1, eff from and after passage (approved April 20, 2021); Laws, 2022, ch. 462, § 11, eff from and after July 1, 2022.

Amendment Notes — The 2021 amendment, effective April 20, 2021, deleted former (1)(b), which required employers with an average monthly withholding tax liability of at least $50,000.00 for the preceding calendar year to make certain minimum withholding tax payments by June 25; and redesignated former (1)(c) as (1)(b).

The 2022 amendment added (8).

Cross References — Mississippi Flexible Tax Incentive Act, see § 57-114-1 et seq.

§ 27-7-311. Annual withholding statement.

Every employer shall file an annual statement of withholding for each employee. The annual statement shall be in the form prescribed by the commissioner and shall be filed with the commissioner and two (2) copies thereof furnished the employee on or before the thirty-first day of January following the close of the calendar year. Provided, if the employment of the employee is terminated during the calendar year, the employer shall furnish such statement to the employee at the time of the termination of employment. Such statement shall show:

(a) The name and withholding account number of the employer;

(b) The name of the employee and his social security account number;

(c) The total compensation paid to the employee; and

(d) The total amount withheld by the employer pursuant to this article for the year or part of a calendar year where the employee worked for less than a full calendar year, and such other information as the commissioner shall require by rule or regulation. The total amount withheld by the employer shall reflect the gross amount withheld by the employer pursuant to this article for such year or part of such calendar year prior to, and expressly excluding, the application of any credit applied and taken by the employer of any tax credit awarded by the Mississippi Development Authority in accordance with the Mississippi Flexible Tax Incentive Act.

HISTORY: Codes, 1942, § 9220-67; Laws, 1968, ch. 580, § 7, eff from and after January 1, 1969; Laws, 2022, ch. 462, § 12, eff from and after July 1, 2022.

Amendment Notes — The 2022 amendment, in the second sentence, inserted "(2)"; redesignated former (1) through (4) as (a) through (d); and in (d), added the last sentence.

Cross References — Mississippi Flexible Tax Incentive Act, see § 57-114-1 et seq.

§ 27-7-313. Refund to taxpayer.

JUDICIAL DECISIONS

1. In general.

Notice of examination itself explicitly states that it serves to arrest the statute of limitations found within Miss. Code Ann. §§ 27-7-49 and 27-13-49; while the notice does use the word arrest instead of toll, the two are synonymous, and therefore, the notice tolls only the statute of limitations mentioned in the notice, not that of Miss. Code Ann. § 27-7-313. Caesars Entm't, Inc. v. Miss. Dep't of Revenue, 295 So. 3d 466, 2020 Miss. LEXIS 108 (Miss. 2020).

Procedure laid out in the statute provides that once there has been an overpayment determination, the commissioner, not the taxpayer, is to request that the state auditor approve the amount suggested by the commissioner and begin the refund process; thus, the Department of Revenue is the only entity that can assert a refund request. Caesars Entm't, Inc. v. Miss. Dep't of Revenue, 295 So. 3d 466, 2020 Miss. LEXIS 108 (Miss. 2020).

Miss. Code Ann. § 27-7-313 controls a taxpayer's time for filing an income tax refund claim, not Miss. Code Ann. § 27-7-49(2), and thus § 27-7-49(2) does not extend the statute of limitations in § 27-7-313. Caesars Entm't, Inc. v. Miss. Dep't of Revenue, 295 So. 3d 466, 2020 Miss. LEXIS 108 (Miss. 2020).

ARTICLE 7.

SETOFF AGAINST TAX REFUND FOR DEBT OWED ON DEFAULT ON EDUCATIONAL LOANS.

Sec.
27-7-701. Definitions.

§ 27-7-701. Definitions.

For the purposes of this article, the following terms shall have the respective meanings ascribed by this section:

(a) "Claimant agency" means the Board of Trustees of State Institutions of Higher Learning or any institution under the jurisdiction thereof, the Mississippi Guarantee Student Loan Agency, the Mississippi Postsecondary Education Financial Assistance Board, any public community or junior college, or any state agency which has loaned money to or is owed a debt by an individual for educational purposes.

(b) "Debtor" means any individual owing money or having a delinquent account with any claimant agency, which obligation has not been adjudicated satisfied by court order, set aside by court order, or discharged in bankruptcy.

(c) "Debt" means any liquidated sum due and owing any claimant agency which has accrued through contract, subrogation, tort or operation of law, regardless of whether there is an outstanding judgment for that sum.

(d) "Commission," "State Tax Commission" or "department" means the Department of Revenue of the State of Mississippi.

(e) "Refund" means the Mississippi income tax refund which the commission determines to be due any individual taxpayer.

HISTORY: Laws, 1985, ch. 464, § 1; Laws, 2009, ch. 492, § 48, eff from and after July 1, 2010; Laws, 2018, ch. 366, § 1, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment, in (a), inserted "Financial," "any public community or junior college" and "or is owed a debt by."

ARTICLE 8.

LOCAL GOVERNMENT DEBT COLLECTION SETOFF ACT

Sec.

27-7-801. Short title.
27-7-803. Legislative purpose.
27-7-805. Definitions.
27-7-807. Remedy to be in addition to others available.
27-7-809. Applicability of article.
27-7-811. Notice to debtor; hearing upon written request; appeals.
27-7-813. Notice to department by claimant government; identification of debtor; determination of debtor's qualification for refund; notice to debtor of setoff.
27-7-815. Priority of multiple claims.
27-7-817. Collection assistance fee.
27-7-819. Transmittal of net proceeds collected to be accompanied by accounting of setoffs; credit of debtor's obligation with net proceeds collected.
27-7-821. Exchange of information necessary to effectuate article; confidentiality of information.
27-7-823. Promulgation of rules and regulations by department and local governments to implement and administer article.

§ 27-7-801. Short title.

This article shall be known as the "Local Government Debt Collection Setoff Act."

HISTORY: Laws, 2019, ch. 345, § 1, eff from and after January 1, 2019, eff from and after January 1, 2019.

§ 27-7-803. Legislative purpose.

The purpose of this article is to establish as public policy that all claimant local governments and the Department of Revenue shall cooperate in identifying debtors who owe money to local governments and who qualify for refunds from the Department of Revenue. It is also the intent of this article that procedures be established for setting off against any refund the sum of any debt owed to a local government. Furthermore, it is the legislative intent that this article be liberally construed so as to effectuate these purposes as far as legally and practically possible.

HISTORY: Laws, 2019, ch. 345, § 2, eff from and after January 1, 2019.

§ 27-7-805. Definitions.

As used in this article:

(a) "Claimant local government" means counties and municipalities acting through their nonprofit member organizations with respect to the collection of any debt owed and finalized by law, ordinance, order or resolution.

(b) "Debtor" means any person owing a debt to any claimant local government.

(c) "Debt" means any liquidated sum due and owing to any claimant local government which has accrued through contract, subrogation, tort, justice or municipal court conviction or any other debt regardless of whether there is an outstanding judgment for the sum.

(d) "Department" means the Mississippi Department of Revenue.

(e) "Local government" means a county or municipality.

(f) "Member organization" means the Mississippi Association of Supervisors for counties, the Mississippi Municipal League for municipalities, or entities established through or contracted by these member organizations for the purpose of facilitating debt collection under this article.

(g) "Net proceeds collected" means gross proceeds collected through setoff against a debtor's refund less the collection assistance fees authorized in this article.

(h) "Person" means any individual, firm, partnership, association, trustee, receiver, assignee, corporation, entity, limited liability company, utility or joint venture.

(i) "Refund" means the Mississippi income tax refund which the department determines to be due a debtor.

(j) "Setoff" means the department's legal right to reduce the debtor's claim to a Mississippi income tax refund from the department by a debt the claimant local government properly establishes under this article which is owed by the debtor.

HISTORY: Laws, 2019, ch. 345, § 3, eff from and after January 1, 2019.

§ 27-7-807. Remedy to be in addition to others available.

(1) The collection remedy in this article is in addition to and not in substitution for any other remedy available by law.

(2) A local government may submit a debt owed to it for collection under this article. A local government that decides to submit a debt owed to it for collection under this article shall establish the debt by following the procedures set forth in Section 27-7-811 and shall submit the debt through a member organization.

HISTORY: Laws, 2019, ch. 345, § 4, eff from and after January 1, 2019.

§ 27-7-809. Applicability of article.

This article only applies to a debt that is at least Fifty Dollars ($50.00) and refunds to which the debtor is entitled of at least Fifty Dollars ($50.00). Different types of debts under Fifty Dollars ($50.00) may be combined to satisfy the debt threshold if they are owed by the same debtor.

HISTORY: Laws, 2019, ch. 345, § 5, eff from and after January 1, 2019.

§ 27-7-811. Notice to debtor; hearing upon written request; appeals.

(1) A local government may not submit a debt for collection under this article until it has given the notice required by this section and the claim has been finally determined as provided in this section.

(2) A local government, or its member organization on its behalf, shall send written notice to a debtor that the local government intends to submit the debt owed by the debtor for collection by setoff. The notice shall explain the basis for the local government's claim to the debt, that the local government intends to apply the debtor's refund against the debt, and that a total collection assistance fee of twenty-five percent (25%) shall be added to the debt if it is submitted for setoff. The notice shall also inform the debtor that the debtor has the right to contest the matter by filing a request for a hearing with the local government, shall state the time limits and procedures for requesting a hearing and shall state that the failure to request a hearing within the required time will result in setoff of the debt.

(3) A debtor who decides to contest a proposed setoff shall file a written request for a hearing with the local government within thirty (30) days after the date the local government mails a notice of the proposed action to the

debtor. A request for a hearing is considered to be filed when it is delivered for mailing with postage prepaid and properly addressed as required in the notice provided by the local government. The governing body of the local government or a person designated by the governing body shall hold the hearing. In a hearing under this section, any civil or criminal issue that has been litigated in a court proceeding cannot be reconsidered.

(4) A decision made after a hearing under this article shall determine whether a debt is owed to the local government and the amount of the debt.

(5) Appeals from hearings held under this article shall be made to the circuit court of the county in which the debtor resides and shall be reviewed on the administrative record made at the hearing before the local government. The standard of review of such decisions shall be that established by Mississippi law pertaining to the review of all other administrative decisions made by political subdivisions.

HISTORY: Laws, 2019, ch. 345, § 6, eff from and after January 1, 2019.

§ 27-7-813. Notice to department by claimant government; identification of debtor; determination of debtor's qualification for refund; notice to debtor of setoff.

(1) A claimant local government, or its member organization on its behalf, seeking to collect a debt through setoff shall notify the department in writing and supply information necessary to identify the debtor whose refund is sought to be setoff. The local government, or its member organization, shall notify the department in writing within sixty (60) days of when a debt of which the department has previously been noticed has been paid or is no longer owed to it.

(2) The department, upon receipt of notification, shall determine each year whether the debtor to the claimant local government is entitled to a refund of at least Fifty Dollars ($50.00) from the department. Upon determination by the department that a debtor specified by a claimant local government qualifies for such a refund, the department shall set off the debt against the refund to which the debtor would otherwise be entitled and shall refund any remaining balance to the debtor. The department shall mail the debtor written notice that the setoff has occurred and shall credit the net proceeds collected to the claimant local government, after deducting the total collection assistance fee owed to the department and the member organization.

HISTORY: Laws, 2019, ch. 345, § 7, eff from and after January 1, 2019.

§ 27-7-815. Priority of multiple claims.

When there are multiple claims by two (2) or more member organizations submitting debts on behalf of local governments, the claims have priority based on the date each member organization filed the claim with the department. When there are multiple claims among local governments whose debts

are submitted by the same member organization, the claims have priority based on the date each local government requested the member organization to submit the debts on its behalf. A claim submitted under Sections 27-7-501 through 27-7-519 shall have priority over a claim submitted under this article.

HISTORY: Laws, 2019, ch. 345, § 8, eff from and after January 1, 2019.

§ 27-7-817. Collection assistance fee.

To recover the costs incurred by the department and the member organization in collecting debts under this article, a total collection assistance fee of twenty-five percent (25%) shall be imposed on each debt collected through setoff. The department shall collect this fee as part of the debt and retain five percent (5%) for its administrative costs. The additional twenty percent (20%) shall be remitted to the member organization as payment for collection services rendered on behalf of its claimant local governments.

HISTORY: Laws, 2019, ch. 345, § 9, eff from and after January 1, 2019.

§ 27-7-819. Transmittal of net proceeds collected to be accompanied by accounting of setoffs; credit of debtor's obligation with net proceeds collected.

(1) Along with the transmittal of the net proceeds collected on behalf of the claimant local government, the department shall provide the local government with an accounting of the setoffs for which payment is being made. The accounting shall, whenever possible, include the full names of the debtors, the debtor's social security numbers or federal tax identification numbers, the gross proceeds collected per setoff, the net proceeds collected per setoff and the collection assistance fees added to the debt collected per setoff.

(2) Upon receipt by a claimant local government of net proceeds collected on the claimant local government's behalf by the department, the claimant local government shall credit the debtor's obligation with the net proceeds collected.

HISTORY: Laws, 2019, ch. 345, § 10, eff from and after January 1, 2019.

§ 27-7-821. Exchange of information necessary to effectuate article; confidentiality of information.

(1) The department, the local government or its member organization on its behalf may exchange information necessary to accomplish and effectuate the intent of this article.

(2) The information obtained by a local government or its member organization in accordance with the provisions of this article shall retain its confidentiality and shall only be used by the local government or member organization in the pursuit of its debt collection duties and practices; and any employee or former employee of any local government or its member organi-

zation who unlawfully discloses any such information for any other purpose, except as otherwise specifically authorized by law, shall be subject to the same penalties specified by law for unauthorized disclosure of confidential information by an agency or employee of the department.

HISTORY: Laws, 2019, ch. 345, § 11, eff from and after January 1, 2019.

§ 27-7-823. Promulgation of rules and regulations by department and local governments to implement and administer article.

The department shall promulgate rules and regulations pursuant to the Mississippi Administrative Procedures Act which are necessary to implement and carry out its duties and functions under this article. Local governments may also promulgate rules and regulations necessary for the local administration of their authority granted under this article.

HISTORY: Laws, 2019, ch. 345, § 12, eff from and after January 1, 2019.

CHAPTER 8.

MISSISSIPPI S CORPORATION INCOME TAX ACT

Sec.
27-8-7. Exemption from Chapter 7 income tax; calculation of shareholders' gross income.

§ 27-8-7. Exemption from Chapter 7 income tax; calculation of shareholders' gross income.

(1) An S corporation shall not be subject to the tax imposed by Section 27-7-5; however, for an S corporation that has made an election under Section 27-7-26 to be taxed as an electing pass-through entity, the S corporation shall be subject to and pay such tax as provided for in Section 27-7-26.

(2) For purposes of Section 27-7-15, each shareholder's pro rata share of the S corporation's income attributable to the state, and each resident shareholder's pro rata share of the S corporation's income not attributable to the state, shall be taken into account by the shareholder in the manner provided in Section 1366 of the Code.

(3) For purposes of determining the amounts taken into account by the shareholders of an S corporation under subsection (2) of this section, the amount of any tax imposed on the S corporation under the Code shall not reduce the S corporation's income attributable to the state and income not attributable to the state.

HISTORY: Laws, 1993, ch. 456, § 4, eff from and after January 1, 1994; Laws, 2022, ch. 416, § 3, eff from and after January 1, 2022.

Amendment Notes — The 2022 amendment, effective January 1, 2022, in (1), added "however...provided for in Section 27-7-26."

CHAPTER 10.

UNIFORM ESTATE TAX APPORTIONMENT ACT

Sec.
27-10-1 through 27-10-25. Repealed.

§§ 27-10-1 through 27-10-25. Repealed.

Repealed by Laws, 2020, ch. 406, § 87, eff from and after July 1, 2020.
§ 27-10-1. [Laws, 1994, ch. 348, § 11, eff from and after January 1, 1995.]
§ 27-10-3. [Laws, 1994, ch. 348, § 10, eff from and after January 1, 1995.]
§ 27-10-5. [Laws, 1994, ch. 348, § 1, eff from and after January 1, 1995.]
§ 27-10-7. [Laws, 1994, ch. 348, § 2, eff from and after January 1, 1995.]
§ 27-10-9. [Laws, 1994, ch. 348, § 3, eff from and after January 1, 1995.]
§ 27-10-11. [Laws, 1994, ch. 348, § 4, eff from and after January 1, 1995.]
§ 27-10-13. [Laws, 1994, ch. 348, § 5, eff from and after January 1, 1995.]
§ 27-10-15. [Laws, 1994, ch. 348, § 6, eff from and after January 1, 1995.]
§ 27-10-17. [Laws, 1994, ch. 348, § 7, eff from and after January 1, 1995.]
§ 27-10-19. [Laws, 1994, ch. 348, § 8, eff from and after January 1, 1995.]
§ 27-10-21. [Laws, 1994, ch. 348, § 9, eff from and after January 1, 1995.]
§ 27-10-23. [Laws, 1994, ch. 348, § 12, eff from and after January 1, 1995.]
§ 27-10-25. [Laws, 1994, ch. 348, § 13, eff from and after January 1, 1995.]

Editor's Note — Former § 27-10-1 provided the short title of the chapter.

Former § 27-10-3 related to uniformity of interpretation of the chapter.

Former § 27-10-5 provided the definitions of terms used in the chapter.

Former § 27-10-7 provided for the apportionment of tax among all persons interested in the estate.

Former § 27-10-9 provided procedures for determining the apportionment of the tax.

Former § 27-10-11 provided the method of proration.

Former § 27-10-13 provided allowances for exemptions, deductions and credits.

Former § 27-10-15 provided there was no apportionment between temporary and remainder interests.

Former § 27-10-17 related to the exoneration of the fiduciary.

Former § 27-10-19 related to actions by nonresidents and reciprocity.

Former § 27-10-21 related to coordination with federal law.

Former § 27-10-23 related to severability.

Former § 27-10-25 related to the applicability of the chapter.

CHAPTER 13.

CORPORATION FRANCHISE TAX

Sec.
27-13-5. Tax on domestic corporations [Repealed effective January 1, 2028].
27-13-7. Tax on foreign corporations [Repealed effective January 1, 2028].
27-13-57. Information kept secret; release of certain information under certain circumstances [Repealed effective January 1, 2028].

§ 27-13-5. Tax on domestic corporations [Repealed effective January 1, 2028].

(1)(a) **Franchise tax levy.** Franchise tax levy. Except as otherwise provided in subsections (3), (4), (5) and (7) of this section, there is hereby imposed, to be paid and collected as hereinafter provided, a franchise or excise tax upon every corporation, association or joint-stock company or partnership treated as a corporation under the income tax laws or regulations, organized or created for pecuniary gain, having privileges not possessed by individuals, and having authorized capital stock now existing in this state, or hereafter organized, created or established, under and by virtue of the laws of the State of Mississippi, equal to:

(i) For tax years beginning before January 1, 2018, Two Dollars and Fifty Cents ($2.50) for each One Thousand Dollars ($1,000.00), or fraction thereof, of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(ii) For tax years beginning on or after January 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents ($2.50) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(iii) For tax years beginning on or after January 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five Cents ($2.25) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(iv) For tax years beginning on or after January 1, 2020, but before January 1, 2021, Two Dollars ($2.00) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(v) For tax years beginning on or after January 1, 2021, but before January 1, 2022, One Dollar and Seventy-five Cents ($1.75) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(vi) For tax years beginning on or after January 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents ($1.50) for each One

Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(vii) For tax years beginning on or after January 1, 2023, but before January 1, 2024, One Dollar and Twenty-five Cents ($1.25) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(viii) For tax years beginning on or after January 1, 2024, but before January 1, 2025, One Dollar ($1.00) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(ix) For tax years beginning on or after January 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(x) For tax years beginning on or after January 1, 2026, but before January 1, 2027, Fifty Cents (50¢) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(xi) For tax years beginning on or after January 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(b) In no case shall the franchise tax due for the accounting period be less than Twenty-five Dollars ($25.00).

(c) It is the purpose of this section to require the payment to the State of Mississippi of this tax for the right granted by the laws of this state to exist as such organization, and to enjoy, under the protection of the laws of this state, the powers, rights, privileges and immunities derived from the state by the form of such existence.

(2) **Annual report of domestic corporations.** Each domestic corporation shall file an annual report as required by the provisions of Section 79-4-16.22.

(3)(a) A corporation that has negotiated a fee-in-lieu as defined in Section 57-75-5 shall not be subject to the tax levied by this section on such project; however, the fee-in-lieu payment shall be otherwise treated in the same manner as the payment of franchise taxes.

(b)(i) As used in this paragraph:

1. "Authority" shall have the meaning ascribed to such term in Section 57-75-5(b);

2. "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxix); and

3. "Enterprise" shall mean the corporation authorized for the project pursuant to Section 57-75-5(f)(xxix).

(ii) The term of the franchise tax fee-in-lieu agreement negotiated under this subsection and authorized by Section 57-75-5(j), between the authority and the enterprise for the project shall not exceed twenty-five (25) years. The franchise tax fee-in-lieu agreement shall apply only to new franchise tax liability attributable to the project, and shall not apply to any existing franchise tax liability of the enterprise in connection with any current operations in this state.

(iii) In the event that the annual number of full-time jobs maintained by the enterprise falls below the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprise for two (2) consecutive years, the franchise tax fee-in-lieu for the project shall be suspended until the first tax year during which the annual number of full-time jobs maintained by the enterprise reaches the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprise.

(iv) The enterprise shall be entitled to utilize a single sales apportionment factor in the calculation of its liability for franchise tax imposed by this chapter which is attributable to the project for any year for which it files a Mississippi franchise tax return. The enterprise shall be entitled to continue to utilize such single sales apportionment factor notwithstanding a suspension of the franchise tax fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

(4) An approved business enterprise as defined in the Growth and Prosperity Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the approved business enterprise in a growth and prosperity county or supervisors district as provided in the Growth and Prosperity Act.

(5) A business enterprise operating a project as defined in Section 57-64-33, in a county that is a member of a regional economic development alliance created under the Regional Economic Development Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise in such a county as provided in Section 57-64-33.

(6) The tax levied by this chapter and paid by a business enterprise located in a redevelopment project area under Sections 57-91-1 through

57-91-11 shall be deposited into the Redevelopment Project Incentive Fund created in Section 57-91-9.

(7) A business enterprise as defined in Section 57-113-1 or 57-113-21 that is exempt from certain state taxes under Section 57-113-5 or 57-113-25 shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise.

(8) A taxpayer who is eligible to apply, as a credit against the tax levied by this chapter, a tax credit awarded by the Mississippi Development Authority in accordance with the Mississippi Flexible Tax Incentive Act may apply the tax credit in the amount available for such purpose, or such lesser amount determined by the taxpayer, pursuant to the Mississippi Flexible Tax Incentive Act. The credit applied for a tax-reporting period shall be reflected on the form of the return in the manner prescribed by the commissioner.

HISTORY: Codes, 1942, § 9313; Laws, 1934, ch. 121; Laws, 1940, ch. 115; Laws, 1955, Ex. ch. 118, § 1; Laws, 1962, ch. 589, § 1; Laws, 1964, ch. 512, § 1; Laws, 1975, ch. 467, § 2; Laws, 1982, ch. 489, § 8; Laws, 1989, ch. 485, § 5; Laws, 2000, 2nd Ex Sess, ch. 1, § 49; Laws, 2002, ch. 464, § 6; Laws, 2005, ch. 468, § 8; Laws, 2010, ch. 533, § 21; Laws, 2013, ch. 419, § 1 Laws, 2016, ch. 499, § 3; Laws, 2016, 1st Ex Sess, ch. 1, § 17, eff from and after Feb. 8, 2016; Laws, 2019, ch. 396, § 5, eff from and after July 1, 2019; Laws, 2022, ch. 462, § 13, eff from and after July 1, 2022.

Amendment Notes — The 2019 amendment, in (7), inserted "or 57-113-21" and "or 57-113-25."

The 2022 amendment added (8).

Cross References — Mississippi Flexible Tax Incentive Act, see § 57-114-1 et seq.

§ 27-13-7. Tax on foreign corporations [Repealed effective January 1, 2028].

(1)(a) **Franchise tax levy.** Franchise tax levy. Except as otherwise provided in subsections (3), (4), (5) and (7) of this section, there is hereby imposed, levied and assessed upon every corporation, association or joint-stock company, or partnership treated as a corporation under the income tax laws or regulations as hereinbefore defined, organized and existing under and by virtue of the laws of some other state, territory or country, or organized and existing without any specific statutory authority, now or hereafter doing business or exercising any power, privilege or right within this state, as hereinbefore defined, a franchise or excise tax equal to:

(i) For tax years beginning before January 1, 2018, Two Dollars and Fifty Cents ($2.50) of each One Thousand Dollars ($1,000.00), or fraction thereof, of the value of capital used, invested or employed within this state, except as hereinafter provided.

(ii) For tax years beginning on or after January 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents ($2.50) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right

enjoyed by such organization within this state, except as hereinafter provided.

(iii) For tax years beginning on or after January 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five Cents ($2.25) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(iv) For tax years beginning on or after January 1, 2020, but before January 1, 2021, Two Dollars ($2.00) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(v) For tax years beginning on or after January 1, 2021, but before January 1, 2022, One Dollar and Seventy-five Cents ($1.75) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(vi) For tax years beginning on or after January 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents ($1.50) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(vii) For tax years beginning on or after January 1, 2023, but before January 1, 2024, One Dollar and Twenty-five Cents ($1.25) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(viii) For tax years beginning on or after January 1, 2024, but before January 1, 2025, One Dollar ($1.00) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(ix) For tax years beginning on or after January 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or

employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(x) For tax years beginning on or after January 1, 2026, but before January 1, 2027, Fifty Cents (50¢) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(xi) For tax years beginning on or after January 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(b) In no case shall the franchise tax due for the accounting period be less than Twenty-five Dollars ($25.00).

(c) It is the purpose of this section to require the payment of a tax by all organizations not organized under the laws of this state, measured by the amount of capital or its equivalent, for which such organization receives the benefit and protection of the government and laws of the state.

(2) **Annual report of foreign corporations.** Each foreign corporation authorized to transact business in this state shall file an annual report as required by the provisions of Section 79-4-16.22.

(3)(a) A corporation that has negotiated a fee-in-lieu as defined in Section 57-75-5 shall not be subject to the tax levied by this section on such project; however, the fee-in-lieu payment shall be otherwise treated in the same manner as the payment of franchise taxes.

(b)(i) As used in this paragraph:

1. "Authority" shall have the meaning ascribed to such term in Section 57-75-5(b);

2. "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxix); and

3. "Enterprise" shall mean the corporation authorized for the project pursuant to Section 57-75-5(f)(xxix).

(ii) The term of the franchise tax fee-in-lieu agreement negotiated under this subsection and authorized by Section 57-75-5(j), between the authority and the enterprise for the project shall not exceed twenty-five (25) years. The franchise tax fee-in-lieu agreement shall apply only to new franchise tax liability attributable to the project, and shall not apply to any existing franchise tax liability of the enterprise in connection with any current operations in this state.

(iii) In the event that the annual number of full-time jobs maintained by the enterprise falls below the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprise for two (2) consecutive years, the franchise tax fee-in-lieu for the project shall be suspended until the first tax year

during which the annual number of full-time jobs maintained by the enterprise reaches the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprise.

(iv) The enterprise shall be entitled to utilize a single sales apportionment factor in the calculation of its liability for franchise tax imposed by this chapter which is attributable to the project for any year for which it files a Mississippi franchise tax return. The enterprise shall be entitled to continue to utilize such single sales apportionment factor notwithstanding a suspension of the franchise tax fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

(4) An approved business enterprise as defined in the Growth and Prosperity Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the approved business enterprise in a growth and prosperity county or supervisors district as provided in the Growth and Prosperity Act.

(5) A business enterprise operating a project as defined in Section 57-64-33, in a county that is a member of a regional economic development alliance created under the Regional Economic Development Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise in such a county as provided in Section 57-64-33.

(6) The tax levied by this chapter and paid by a business enterprise located in a redevelopment project area under Sections 57-91-1 through 57-91-11 shall be deposited into the Redevelopment Project Incentive Fund created in Section 57-91-9.

(7) A business enterprise as defined in Section 57-113-1 or 57-113-21 that is exempt from certain state taxes under Section 57-113-5 or 57-113-25 shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise.

(8) A taxpayer who is eligible to apply, as a credit against the tax levied by this chapter, a tax credit awarded by the Mississippi Development Authority in accordance with the Mississippi Flexible Tax Incentive Act may apply the tax credit in the amount available for such purpose, or such lesser amount determined by the taxpayer, pursuant to the Mississippi Flexible Tax Incentive Act. The credit applied for a tax-reporting period shall be reflected on the form of the return in the manner prescribed by the commissioner.

HISTORY: Codes, 1942, § 9314; Laws, 1934, ch. 121; Laws, 1940, ch. 115; Laws, 1955, Ex. Ch. 118, § 2; Laws, 1962, ch. 589, § 2; Laws, 1964, ch. 512, § 2; Laws, 1975, ch. 467, § 3; Laws, 1982, ch. 489, § 9; Laws, 1989, ch. 485, § 6; Laws, 2000, 2nd Ex Sess, ch. 1, § 50; Laws, 2002, ch. 464, § 7; Laws, 2005, ch. 468, § 9; Laws, 2010, ch. 533, § 22; Laws, 2013, ch. 419, § 2; Laws, 2016, ch. 499, § 4; Laws, 2016, 1st Ex Sess, ch. 1, § 18, eff from and after Feb. 8, 2016; Laws, 2019, ch. 396, § 6, eff from and after July 1, 2019; Laws, 2022, ch. 462, § 14, eff from and after July 1, 2022.

Amendment Notes — The 2019 amendment, in (7), inserted "or 57-113-21" and "or 57-113-25."

The 2022 amendment added (8).

Cross References — Mississippi Flexible Tax Incentive Act, see §§ 57-114-1 et seq.

§ 27-13-57. Information kept secret; release of certain information under certain circumstances [Repealed effective January 1, 2028].

(1) Except in accordance with the proper judicial order, or as otherwise provided in this section or as authorized in Section 27-4-3, it shall be unlawful for the Commissioner of Revenue or any deputy, agent, clerk or other officer or employee of the Department of Revenue to divulge or make known in any manner any particulars set forth or disclosed in any report or return required under this chapter. When a combined report or return is filed as authorized by Section 27-13-17(5), each report or return which composes the combined return shall be considered separate for the purpose of any examinations authorized in this section and only particulars relating to the specific return or report set forth in the judicial order or as otherwise provided shall be considered lawfully divulged. The term "proper judicial order" as used in this section shall not include subpoenas or subpoenas duces tecum, but shall include only those orders entered by a court of record in this state after furnishing notice and a hearing to the taxpayer and the Department of Revenue. The court shall not authorize the furnishing of such information unless it is satisfied that the information is needed to pursue pending litigation wherein the return itself is in issue, or the judge is satisfied that the need for furnishing the information outweighs the rights of the taxpayer to have such information secreted. Nothing in this section shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the Attorney General or any other attorney representing the state of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or penalty imposed by this chapter. Reports and returns shall be preserved in accordance with approved records control schedules. No records, however, may be destroyed without the approval of the Director of the Department of Archives and History.

However, information relating to possible tax liability of other states or the federal government may be furnished to the revenue department of those states or the federal government when those states or the federal government grant a like comity to Mississippi.

(2) The State Auditor and the employees of his office shall have the right to examine only such tax returns as are necessary for auditing the Department of Revenue, and the same prohibitions against disclosure which apply to the Department of Revenue shall apply to the State Auditor and his office.

(3) Officers and employees of the Mississippi Development Authority who execute a confidentiality agreement with the Department of Revenue shall be authorized to discuss and examine information to which this section applies at

the offices of the Mississippi Department of Revenue. This disclosure is limited to information necessary to properly administer the programs under the jurisdiction of the Mississippi Development Authority. The Department of Revenue is authorized to disclose to officers and employees of the Mississippi Development Authority who execute a confidentiality agreement the information necessary under the circumstances. The same prohibitions against disclosure which apply to the Department of Revenue shall apply to the officers or employees of the Mississippi Development Authority.

(4) Information required by the University Research Center to prepare the analyses required by Sections 57-13-101 through 57-13-109 shall be furnished to the University Research Center upon request. It shall be unlawful for any officer or employee of the University Research Center to divulge or make known in any manner any particulars set forth or disclosed in any information received by the center from the Department of Revenue other than as may be required by Sections 57-13-101 through 57-13-109 in an analysis prepared pursuant to Sections 57-13-101 through 57-13-109.

(5) Information required by the Mississippi Development Authority to prepare the reports required by Section 57-1-12.2 shall be furnished to the Mississippi Development Authority upon request. It shall be unlawful for any officer or employee of the Mississippi Development Authority to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any information received by the Mississippi Development Authority from the Department of Revenue other than as may be required by Section 57-1-12.2 in a report prepared pursuant to Section 57-1-12.2.

(6) Information necessary to comply with Chapter 13, Title 85 may be furnished to financial institutions. It shall be unlawful for any officer or employee of the financial institution to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any information received by the financial institution from the Department of Revenue other than as may be authorized by Chapter 13, Title 85.

(7) The Commissioner of Revenue and the Department of Revenue are authorized to discuss with and provide the Attorney General or his designated representative with information related to an offer to compromise and settle any doubtful claim regarding a finally determined tax liability as authorized by Section 31-19-30. It shall be unlawful for the Attorney General or any officer or employee of the Attorney General to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any information received by the Attorney General's office from the Commissioner of Revenue or Department of Revenue other than as may be required by Section 31-19-30.

(8) Nothing in this section shall prohibit the Commissioner of Revenue from making available information necessary to recover taxes owing the state pursuant to the authority granted in Section 27-75-16, Mississippi Code of 1972.

(9) Any person violating the provisions of this section shall be guilty of a misdemeanor and, on conviction, shall be punished by a fine of not exceeding

Five Hundred Dollars ($500.00), or by imprisonment not exceeding one (1) year, or both, at the discretion of the court, and if the offender be an officer or employee of the state he shall be dismissed from office and be incapable of holding any public office in this state for a period of five (5) years thereafter.

HISTORY: Codes, 1942, § 9333; Laws, 1934, ch. 121; Laws, 1975, ch. 467; § 7; ch. 516, § 3; Laws, 1981, ch. 501, § 23; Laws, 1984, ch. 447, § 5; Laws, 1988, ch. 349, § 4; Laws, 2010, ch. 385, § 3; Laws, 2010, ch. 388, § 4; brought forward without change, Laws, 2010, ch. 481, § 4; Laws, 2014, ch. 517, § 10; Laws, 2017, ch. 407, § 7, eff from and after July 1, 2017; Laws, 2021, ch. 461, § 6, eff from and after July 1, 2021.

Amendment Notes — The 2021 amendment added (7); and redesignated former (7) and (8) as (8) and (9).

CHAPTER 15.

STATEWIDE PRIVILEGE TAXES

Insurance Taxes. 27-15-81
General Administrative Provisions Applicable to Chapter. 27-15-201

INSURANCE TAXES

Sec.
27-15-107. Premium taxes; four periodic estimated tax returns and payments; reconciliation return and final payment; reporting periods, amount of tax to be paid each reporting period, due dates; penalties; Department of Revenue to enforce.

§ 27-15-103. Premium taxes; foreign insurance companies and associations.

Cross References — Credit against taxes imposed by this section for certain business enterprises for voluntary cash contributions made by the business enterprise to eligible charitable organizations, see § 27-7-22.40.

§ 27-15-107. Premium taxes; four periodic estimated tax returns and payments; reconciliation return and final payment; reporting periods, amount of tax to be paid each reporting period, due dates; penalties; Department of Revenue to enforce.

(1) Every insurance company liable for the tax under the provisions hereof shall make and file with the Department of Revenue, estimated tax returns and payments for the insurance premium tax levied under Sections 27-15-103 and 27-15-109 for the first four (4) periods of each calendar year and a reconciliation return and payment for the final reporting period for each calendar year based on the actual liability of the insurance company for

insurance premium taxes for that calendar year. The insurance company shall estimate the amount of insurance premium taxes to be due for each calendar year and pay insurance premium taxes based on a percentage of that estimate as provided for in subsection (2) of this section for the first four (4) reporting periods of each calendar year. In addition to reflecting the amount of estimated tax payment being paid, the estimated return shall also contain an estimate of the gross amount of premium receipts of the insurance company subject to the insurance premium tax under Sections 27-15-103 and 27-15-109 during the reporting period. For the final reporting period for each calendar year, every insurance company shall file a reconciliation tax return reporting the balance of insurance premium taxes due for the calendar year based on insurance premiums actually received during the calendar year after the application of the estimated tax payments for the first four (4) reporting periods and any applicable credits, and pay the balance of insurance premium taxes due for the calendar year. The insurance company shall also pay with the reconciliation tax return any penalties and/or interest due for the calendar year, including any penalty and/or interest for underestimating the amount of estimated tax to be paid for the first four (4) reporting periods.

(2) The reporting periods, the amount of insurance premium tax to be paid for the reporting periods, and the due date for the tax return and payment for the reporting periods are as follows:

(a) For the first reporting period of January 1 through March 31, the percentage to be paid is one-fourth (1/4) of the estimated tax amount. The due date for the estimated return and payment is April 20.

(b) For the second reporting period of April 1 through May 31, the percentage to be paid is one-sixth (1/6) of the estimated tax amount. The due date for the estimated return and payment is June 20.

(c) For the third reporting period of June 1 through June 30, the percentage to be paid is one-twelfth (1/12) of the estimated tax amount. The due date for the estimated return and payment is July 20.

(d) For the fourth reporting period of July 1 through September 30, the percentage to be paid is one-fourth (1/4) of the estimated tax amount. The due date for the estimated return and payment is October 20.

(e) For the final reporting period of October 1 through December 31, the balance of insurance premium tax due for the calendar year shall be paid after application of estimated payments for the first four (4) reporting periods and any applicable credits are reported on a reconciliation tax return. The due date for the return and payment, including payment of any penalty and/or interest, is March 1.

(3) Any insurance company liable for the insurance premium tax levied under Sections 27-15-103 and 27-15-109 that fails to file an estimated tax return or a reconciliation tax return and fails to pay the required estimated tax payments with the estimated tax return or the balance of insurance premium tax with the reconciliation tax return by the due date for such return and payment, shall be liable for a penalty in the amount of ten percent (10%) of the payment due and interest at the rate of one-half of one percent (1/2 of 1%) per month from the due date of the payment until paid.

(4) Any insurance company that underestimates the estimated amount of insurance premium tax to be paid for any of the first four (4) reporting periods by more than ten percent (10%) shall be liable for penalty in the amount of ten percent (10%) of the amount by which the insurance company underestimated the amount of insurance premium tax due. The amount of this underestimate shall be determined by subtracting the amount paid for that reporting period from an amount determined by multiplying the actual annual insurance premium taxes due for the calendar year times the percentage of estimated tax to be paid for the reporting period. The insurance company shall also be liable for interest on the underestimated amount at the rate of one-half of one percent (1/2 of 1%) per month from the due date for the reporting period until the insurance company pays the actual annual insurance premium taxes due for the calendar year in which the reporting period is included.

(5) The Department of Revenue shall have the authority to promulgate rules and regulations, not inconsistent with this article, as it may deem necessary to enforce its provisions.

HISTORY: Codes, 1942, § 9537-03; Laws, 1956, ch. 337, § 3; Laws, 1982, ch. 351, § 2; Laws, 1988, ch. 330; Laws, 1994, ch. 502, § 1; Laws, 2002, ch. 539, § 4; Laws, 2008, ch. 330, § 1; Laws, 2009, ch. 352, § 1; Laws, 2014, ch. 419, § 1, eff from and after Jan. 1, 2014; Laws, 2020, ch. 372, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment substituted "one-half of one percent (1/2 of 1%)" for " one percent (1%)" in (3) and (4).

§ 27-15-109. Premium taxes; domestic companies.

Cross References — Credit against taxes imposed by this section for certain business enterprises for voluntary cash contributions made by the business enterprise to eligible charitable organizations, see § 27-7-22.40.

§ 27-15-123. Premium retaliatory tax; imposition.

Cross References — Credit against taxes imposed by this section for certain business enterprises for voluntary cash contributions made by the business enterprise to eligible charitable organizations, see § 27-7-22.40.

GENERAL ADMINISTRATIVE PROVISIONS APPLICABLE TO CHAPTER

Sec.
27-15-205. License; issuance, duration, suspension and reinstatement.
27-15-223. Printing of privilege tax license blanks.

§ 27-15-205. License; issuance, duration, suspension and reinstatement.

Upon the receipt of the application herein required, and payment of the amount shown thereby to be due for the privilege to be exercised, the officer to

whom the application is made shall determine if the application is in proper form, and if the correct amount be tendered, and may require the applicant to furnish such other and further information as in his opinion is necessary to ascertain the correct amount of tax due. When the correct amount of the tax has been so ascertained, the officer shall issue to the applicant taxpayer a privilege license according to such application, and shall date the same as of the first day of the month of its issuance, except that licenses issued by the Commissioner of Insurance will be effective as of the date the license is issued. The officer issuing the license shall countersign the same when issued by him, and he shall enter the same in the register prescribed by law therefor. The license issued by collectors as herein provided shall be executed in duplicate, the original shall be delivered to the licensee by the officer, and the duplicate shall be attached to the application therefor, and preserved by the officer as a public record.

If, however, such officer, shall, before issuing the license, or at any time thereafter, have reason to believe that the statements of the business contained in the application are incorrect or false in any material particular, the officer shall duly notify the applicant wherein the supposed discrepancy lies, and he is hereby empowered to require the applicant to render such other information as will enable him to determine the proper tax due. After making such determination of the proper tax due, if the license has not been issued, the officer shall forthwith proceed to collect the amount of tax due; and if the license shall have been issued under the original application, he shall collect the difference between the sum shown to be properly due, and the sum paid with the original application, and shall issue an additional license therefor which shall expire at the same time as the original. If the additional tax is paid within sixty (60) days after the determination by the office of the proper amount due, no penalty shall be applied. If the taxpayer shall willfully fail or refuse to furnish the information requested by such officer, he shall be liable for damages as in other cases of payment of an insufficient privilege tax, and may be proceeded against civilly or criminally as otherwise provided herein, and shall suffer the penalties provided herein therefor.

The license issued pursuant to this section shall be good, usable, and valid for one (1) year after the date thereof, or for such other period as is fixed by law for the privilege, which period shall be so designated in the license. Except as provided in Title 83, Mississippi Code of 1972, for licenses issued by the Commissioner of Insurance, all statewide licenses shall be issued for a period no longer than one (1) year.

The officer issuing the license shall be authorized to suspend any license issued to any person pursuant to this section for being out of compliance with an order for support, as defined in 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or Section 93-11-163, as the case may be. If there is any conflict between any

provision of Section 93-11-157 or Section 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or Section 93-11-163, as the case may be, shall control.

HISTORY: Codes, 1942, §§ 9427, 9668; Laws, 1940, ch. 120; Laws, 1944, ch. 138, §§ 1, 49; Laws, 1996, ch. 507, § 8; Laws, 2009, ch. 492, § 56, eff from and after July 1, 2010; Laws, 2022, ch. 473, § 1, eff from and after July 1, 2022.

Amendment Notes — The 2022 amendment, in the first paragraph, added the exception at the end of the second sentence; and in the third paragraph, added the exception at the beginning of the last sentence.

§ 27-15-223. Printing of privilege tax license blanks.

It shall be the duty of the officer collecting the taxes to prepare and have printed the proper privilege tax license blanks necessary to carry into effect the laws relating to privilege taxes and there shall be printed on each license at the bottom thereof, the words: "This license shall not make lawful any act or thing declared to be unlawful by the State of Mississippi." Except as provided in Title 83, Mississippi Code of 1972, for licenses issued by the Commissioner of Insurance, all such privilege tax license blanks shall be printed in the form prescribed by the officer collecting the tax and shall be imprinted with the fiscal year for which the blanks are to be issued, and shall be numbered consecutively beginning with number one (1) of each fiscal year; and shall be made in duplicate, the original and duplicate to bear the same serial number and be alike in all respects, except that they be marked "original," "duplicate," and be of different colors.

HISTORY: Codes, 1942, § 9683; Laws, 1940, ch. 120; Laws, 1944, ch. 138, § 63, eff from and after June 1, 1944; Laws, 2022, ch. 473, § 2, eff from and after July 1, 2022.

Amendment Notes — The 2022 amendment added the exception at the beginning of the second sentence.

CHAPTER 17.

LOCAL PRIVILEGE TAXES

General Administrative Provisions Applicable to Chapter. 27-17-451

GENERAL ADMINISTRATIVE PROVISIONS APPLICABLE TO CHAPTER

Sec.
27-17-455. License; issuance and duration.
27-17-475. County auditor to have licenses printed.
27-17-493. Disposition of monies collected; privilege tax record to be kept.

§ 27-17-453. License; taxpayer to make application.

HISTORY: Codes, 1942, § 9696-207; Laws, 1944, ch. 137, § 203; Laws, 1988, ch.

505, § 5; Laws, 1994, ch. 306, § 1, eff from and after July 1, 1994; brought forward without change, Laws, 2018, ch. 357, § 4, eff from and after July 1, 2018.

Editor's Notes — This section was brought forward without change by Laws of 2018, ch. 357, § 4, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the bringing forward of the section, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment brought the section forward without change.

§ 27-17-455. License; issuance and duration.

Upon the receipt of the application herein required, and payment of the amount shown thereby to be due for the privilege to be exercised, the officer to whom said application is made shall determine if the application is in proper form, and if the correct amount be tendered, and may require the applicant to furnish such other and further information as in his opinion is necessary to ascertain the correct amount of tax due. When the correct amount of the tax has been so ascertained, the said officer shall issue to the applicant taxpayer a privilege license according to such application, and shall date the same as of the first day of the month of its issuance. The officer issuing the license shall countersign the same in writing or alternatively, by electronic or digital signature or a handwritten signature saved on a computer, when the license is issued by him, and he shall enter the same in the register prescribed by law therefor. The license issued by collectors as herein provided shall be executed in duplicate, which duplicate may be in the form of a paper copy or electronic document. The original shall be delivered to the licensee by the officer, and the paper or electronic duplicate, as the case may be, shall be attached or electronically linked to or otherwise maintained with the application therefor, and preserved by the officer as a public record.

If, however, such officer, shall, before issuing the said license, or at any time thereafter, have reason to believe that the statements of the business contained in the application are incorrect or false in any material particular, the said officer shall duly notify the applicant wherein the supposed discrepancy lies, and he is hereby empowered to require the applicant to render such other information as will enable him to determine the proper tax due. After making such determination of the proper tax due, if the license has not been issued, such officer shall forthwith proceed to collect the amount of tax due; and if the license shall have been issued under the original application, he shall collect the difference between the sum shown to be properly due, and the sum paid with the original application, and shall issue an additional license therefor which shall expire at the same time as the original. If the additional tax is paid within thirty (30) days after the determination by the officer of the proper amount due, no penalty shall be applied. If the taxpayer shall willfully fail or refuse to furnish the information requested by such officer, he shall be liable for damages as in other cases of payment of an insufficient privilege tax, and may be proceeded against civilly or criminally as otherwise provided herein, and shall suffer the penalties provided herein therefor.

All licenses issued pursuant to this section shall be good, usable and valid for one (1) year after the date thereof, or for such other period as is fixed by law for the privilege, which period shall be so designated in the license. However, no such license shall be issued for a period longer than one (1) year.

HISTORY: Codes, 1942, §§ 9696-01, 9696-208; Laws, 1944, ch. 137, §§ 1, 204, eff from and after June 1, 1944; Laws, 2018, ch. 357, § 1, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment, in the first paragraph, inserted "in writing or alternatively, by electronic or digital signature or a handwritten signature saved on a computer" and "the license is" in the third sentence, "which duplicate may be in the form of a paper copy or electronic document" in the fourth sentence, and "paper or electronic," "as the case may be," "or electronically linked" and "or otherwise maintained with" in the last sentence.

§ 27-17-463. License may be taken for part of year, when.

HISTORY: Codes, 1942, § 9696-211; Laws, 1944, ch. 137, § 207; Laws, 1988, ch. 505, § 6, eff from and after July 1, 1988; brought forward without change, Laws, 2018, ch. 357, § 5, eff from and after July 1, 2018.

Editor's Notes — This section was brought forward without change by Laws of 2018, ch. 357, § 5, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the bringing forward of the section, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment brought the section forward without change.

§ 27-17-475. County auditor to have licenses printed.

It shall be the duty of the county auditor or of the governing body of a municipality to prepare and have printed and distributed to the officer collecting the tax the proper privilege tax license blanks necessary to carry into effect any law relating to privilege taxes. There shall be printed on each license at the bottom thereof the words "this license shall not make lawful any act or thing declared to be unlawful by the State of Mississippi." All such privilege license blanks shall be printed in the form prescribed by the county auditor or in the case of a municipality, by the governing body of a municipality. The privilege license blanks shall be imprinted with the fiscal year for which the blanks are to be issued and shall be numbered consecutively for each fiscal year. The privilege license blanks shall be made in duplicate, which duplicate may be in the form of a paper copy or electronic document. The original and paper or electronic duplicate, as the case may be, must bear the same serial number and be alike in all respects except that they must be marked "original" and "duplicate." If a paper duplicate is used, the original and duplicate shall be of different colors.

HISTORY: Codes, 1942, § 9696-221; Laws, 1944, ch. 137, § 217, eff from and after June 1, 1944; Laws, 2018, ch. 357, § 2, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment rewrote the section, which read: "It shall be the duty of the county auditor or of the governing body of a municipality to prepare and have printed and distributed to the officer collecting the tax the proper privilege tax license blanks necessary to carry into effect any law relating to privilege taxes, and there shall be printed on each license at the bottom thereof the words "this license shall not make lawful any act or thing declared to be unlawful by the State of Mississippi." All such privilege license blanks shall be printed in the form prescribed by the county auditor or in the case of a municipality by the governing body of a municipality and shall be imprinted with the fiscal year for which the blanks are to be issued and shall be numbered consecutively beginning with number one (1) of each fiscal year and shall be made in duplicate, the original and duplicate to bear the same serial number and be alike in all respects except that they be marked "original" and "duplicate" and shall be of different colors."

§ 27-17-493. Disposition of monies collected; privilege tax record to be kept.

Each officer authorized to issue privilege licenses shall keep a privilege tax register in such form as he shall determine, in which the names of all privilege taxpayers shall be recorded, showing the amount paid, the serial number of the license issued and the period covered by such license, the business licensed and the location thereof. This register shall be submitted to the county auditor, or in the case of a municipality to the governing body of the municipality by such officer at the end of each fiscal year or within twenty (20) days thereafter, when his final settlement shall be made. If the same be found correct and the amounts shown thereon to have been paid into the proper treasury, the county auditor or the proper officer of the municipality shall endorse the register "examined and found correct." This register shall constitute a permanent record of the officer authorized to collect privilege taxes and shall always be open for inspection by the public and the same shall be submitted to the grand jury by the keeper thereof whenever called for. At the same time when final settlement is made, as provided in this section, every officer shall return to the county auditor or to the governing body of the municipality in the case of municipalities all unused privilege tax license blanks and shall make a final settlement of his privilege tax accounts. The unused privilege tax license blanks shall be kept or electronically stored by the proper officer for three (3) years, at the expiration of which they may be destroyed or disposed of. On or before the twentieth day of January of the year in which the officer's term expires, each officer shall in like manner submit to the county auditor or in the case of municipalities to the governing body of the municipality his privilege tax register, together with itemized receipt signed by his successor in office properly certified by the county auditor or by the proper officer of the governing body of the municipality, setting forth by serial number all unused privilege tax license blanks on hand at the expiration of his term of office, and if the county auditor or the proper officer of the municipality shall find the same correct, he shall endorse the same, as hereinbefore provided, and shall charge such officer's successor in office with all unused privilege tax license blanks, which shall be accounted for by said successor in office in like manner. Any

other officer shall make a like settlement upon the expiration of his term of office. All monies received by the officer authorized by law to issue privilege tax licenses shall be deposited in the proper depository and shall be accounted for as provided by law.

HISTORY: Codes, 1942, § 9696-223; Laws, 1944, ch. 137, § 219, eff from and after June 1, 1944; Laws, 2018, ch. 357, § 3, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment inserted "or electronically stored" and "or disposed of" in the sixth sentence.